

**UNITED STATES BANKRUPTCY COURT**  
**NORTHERN DISTRICT OF ILLINOIS**  
EASTERN DIVISION  
219 SOUTH DEARBORN STREET  
CHICAGO, ILLINOIS 60604  
**Kenneth S. Gardner**, Bankruptcy Clerk

Date:

To: Michael Dobbins, Clerk  
United States District Court  
219 South Dearborn Street  
Chicago, IL 60604

**08CV4665**  
**JUDGE CONLON**  
**MAG. JUDGE NOLAN**

RE: Bankruptcy Case Number:

02-22594

Debtor:

Compak Corporation

Adversary Case Number:

04-4028

Plaintiff:

The Compak Companies Inc

Defendant:

Jimmie L Johnson et al Bruce Carlson

*RON BOWEN, PAT PAK INC.*  
*DUOTECH HOLDINGS INC, DUOTECH Packaging, LLC, Olmarc Packaging Co*  
Pursuant to Rule 9033 (d) of the Bankruptcy Rules of Procedure, transmitted  
herewith is:



Proposed Findings of Fact and Conclusions of Law



Objections



Responses



Transcript of Record



Designation of Record with Record included



Other

**FILED**

AUG 15 2008

**MICHAEL W. DOBBINS**  
**CLERK, U.S. DISTRICT COURT**

*Claudia E Cabrales*  
Claudia E Cabrales

Case Administrator

cc: Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

In re:

COMPAK CORPORATION,

Debtor.

COMMUNION PACKAGING  
COMPANY, an Illinois corporation,

Debtor.

THE COMPAK COMPANIES, LLC,

Plaintiff,

v.

JIMMIE L. JOHNSON, RON BOWEN,  
BRUCE CARLSON, PATPAK, INC.,  
DUOTECH HOLDINGS, INC.,  
DUOTECH PACKAGING, LLC, AND  
OLMARC PACKAGING COMPANY,

Defendants.

Case No. 02 B 22594

Honorable Bruce W. Black  
Chapter 7

Case No. 02 B 39188

Chapter 7  
Honorable Bruce W. Black

(Jointly Administered)

Adv. No. 04 A 04028

**08CV4665**

**JUDGE CONLON**

**MAG. JUDGE NOLAN**

**PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Background

This adversary proceeding was referred to this court by order of United States District Judge John F. Grady on September 1, 2004, pursuant to 28 U.S.C. § 157(a). Judge Grady's order referred counts I and II of the complaint filed in the district court as case number 03 C 7427 as "related to" the bankruptcy case of Compak Corporation. Presently before this court is the defendants' motion for summary judgment. The motion has been thoroughly briefed and argued.

The issues raised in counts I and II are not "core" bankruptcy issues as defined in 28 U.S.C. § 157(b), and the plaintiff has not consented to this judge entering final judgment herein. Consequently, under 28 U.S.C. § 157(c) and Federal Rule of Bankruptcy Procedure 9033, this court hereby files these Proposed Findings of Fact and Conclusions of Law and recommends that the District Court grant the motion for summary judgment and enter judgment in favor of the defendants.

#### Findings of Fact

There are no genuine disputes regarding the following material facts:

1. The plaintiff is The Compak Companies LLC ("TCC"), a Florida limited liability company.
2. BMJ Partners ("BMJ") is an Illinois partnership.
3. Compak Corporation ("Compak") is an Oregon corporation, and Communion Packaging Company ("CPC") is an Illinois corporation. Compak filed for relief under chapter 11 of the Bankruptcy Code (11 U.S.C. §§ 101 *ff*) on June 10, 2002. CPC filed under chapter 11 on October 7, 2002. The two cases were consolidated on October 23, 2002. The cases were converted to cases under chapter 7 on April 3, 2003.
4. BMJ was the successful bidder at an auction of certain assets of the debtors under section 363 of the Bankruptcy Code. See Sale Order entered on March 24, 2003.
5. BMJ assigned various interests to TCC in April of 2003.
6. Pursuant to the assignment from BMJ, TCC is alleging patent infringement by the defendants.

7. Three of the defendants – DuoTech Holdings, Inc., an Illinois corporation, DuoTech Packaging LLC, and Bruce Carlson (individually “Holdings”, “Packaging” and “Carlson”; and collectively the “DuoTech Defendants”) – have moved for summary judgment.
8. Jimmie L. Johnson (“Johnson”) was the principal of Compak and CPC.
9. On April 7, 1992, Johnson filed a patent application which resulted in United States Patent No. 5,246,106 (the ‘106 patent) being issued to Johnson on September 21, 1993.
10. On July 9, 1992, Johnson assigned all of his interest in the invention underlying the application which led to the ‘106 patent, and any subsequent related inventions, to Compak. (Bill of Sale, exhibit 4 to the plaintiff’s Appendix attached to its Statement of Additional Facts)
11. Between 1993 and 1998 three other patents – the ‘351, the ‘388 patent, and the ‘312 patent – were issued to Johnson.
12. Prior to the debtors’ bankruptcies, Compak, Holdings, Johnson, and Patpak Corporation (another Johnson creation) had entered into a series of agreements which purported to grant Holdings a license to use all four of the patents. (The “DuoTech License” )
13. The latest agreement was dated August 29, 2001, and purported to modify a similar license agreement draft circulated among the parties in July 2001.
14. Both the August and July versions of the DuoTech License Agreement recited that (1) Compak owned the ‘106 patent, (2) Patpak owned the other three patents, and (3) Patpak had licensed the exclusive use of the other three patents to Compak.

15. Both the August and July versions of the DuoTech License Agreement provide in substance that "COMPAK hereby grants to DUO-TECH an irrevocable license" to use the four patents.
16. The schedule of executory contracts and unexpired leases filed by Compak listed Holdings as a party to an executory contract and disclosed the existence of the DuoTech License.
17. On February 28, 2003, Compak filed and served notice of its "Motion to Sell Business Real and Personal Property and to Shorten Notice Period." ("Sale Motion")
18. The notice of the Sale Motion consisted of a copy of the motion and a copy of the proposed asset purchase agreement between Compak and a stalking-horse bidder. ("The Notice")
19. The Notice was not served on any of the DuoTech Defendants.
20. The Notice did not expressly state that the debtors' assets would be sold free and clear of licenses generally or of the DuoTech License specifically. Instead, a portion of the asset purchase agreement included in the Notice indicated that all executory contracts of the debtor would be "assigned to and assumed by the purchaser."
21. The DuoTech Defendants were not present nor represented at the hearing on the Sale Motion.

#### Conclusions of Law

This court submits that the following conclusions of law are applicable to the facts of this case. Additional statements of fact contained in the conclusions of law will stand as further findings of fact to which there are no genuine disputes.

**Count II**

1. The ideas and inventions which are the subjects of the '351, '388, and '312 patents are related to the ideas and inventions which are the subject of the '106 patent.
2. By virtue of Johnson's assignment of his rights, title, and interest in the pending '106 patent and any related inventions to Compak, Johnson was divested of any transferable interest in the '351, '388, and '312 patents.
3. All rights, title, and interest in the '351, '388, and '312 patent vested in Compak by operation of law when the patents were issued.
4. The purported Patpak license was invalid because Johnson had given up his rights, title, and interest in the patents.
5. The series of agreements among Compak, Johnson, and Holdings in June, July, and August of 2001 resulted in Holdings having a license to use all four patents.
6. If the August 29, 2001, agreement was not effective due to lack of consideration or mutuality, the prior license agreement would still be valid.
7. As of the debtors' petition dates, Holdings held a valid license to use all four patents.
8. That Compak owned all four patents, rather than being a licensee from Patpak for three of them, is not legally significant in light of Compak's clear grant of a license to Holdings regarding all four patents.
9. Holdings was entitled to receive notice of the Sale Motion under Federal Rule of Bankruptcy Procedure 2002.
10. Notice of the Sale Motion was not served on Holdings or anyone else authorized by law to receive notice on behalf of Holdings.

11. The legal authorities *In re La Rowe*, 91 F.Supp. 52 (D. Minn. 1950), *Boyd v. Illinois State Police*, 2001 WL 726988 (N.D. Ill. June 28, 2001), and *Lawrence Tractor Co. v. Gregory (In re Gregory)*, 705 F.2d 1118 (9<sup>th</sup> Cir. 1983), cited by the plaintiffs in support of the proposition that Holdings was properly served with notice of the Sale Motion, afford no support for that proposition.
12. *La Rowe* is clearly distinguishable because there the party objecting to the sale admitted that it had prior knowledge of the sale.
13. *Boyd* simply has no relevance to this case.
14. *Gregory* was an adversary proceeding stemming from a chapter 13 case in which the plaintiff received notice of the meeting of creditors but failed to object to confirmation of the chapter 13 plan. Thus, it is clearly distinguishable from this case.
15. Because Holdings did not receive notice of the Sale Motion, terminating the DuoTech License pursuant to the Sale Order would violate Holdings' right to due process of law under the Fifth Amendment to the Constitution of the United States.
16. The plaintiff's general allegation that DuoTech had actual notice of the sale is not supported by any evidence and is countered by the affidavit of DuoTech's President, Bruce Carlson. (Affidavit of Bruce Carlson, exhibit V to the defendants' Appendix attached to its Supplement in Support of the Motion for Summary Judgment)
17. Even if the Defendants had actual notice or were served with the Sale Motion, that notice would not have been "of such nature as reasonably to convey the required information" that the property rights of the Defendants were in jeopardy at the sale. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950); See also *Fogal v. Zell*, 221 F.3d 955 (7<sup>th</sup> Cir. 2000).

18. Accordingly, the DuoTech License was not adversely affected by the Sale Order, and anything in that order to the contrary is void. The 2003 Sale Order is otherwise valid and fully enforceable. See *In re Metzger*, 346 B.R. 806, 819 (Bkrcty.N.D.Cal. 2006).
19. It follows that BMJ Partners acquired Compak's interest in the DuoTech License through its purchase of the debtors' assets and that BMJ assumed the DuoTech License Agreement.
20. Section 365(d)(1) of the Bankruptcy Code does not apply to these facts because the DuoTech License was not an asset of the chapter 7 estate, having been purchased by BMJ Partners before the conversion to chapter 7.
21. Neither BMJ Partners nor its successor in interest, the plaintiff, have taken action to terminate the DuoTech License.
22. Because the DuoTech License has not been terminated, the DuoTech Defendants have had the right to use all four patents in their business and there has been no patent infringement.
23. The DuoTech Defendants' motion for summary judgment regarding count II should be granted.

#### Count I

1. "Where a person holding title to property is subject to an equitable duty to convey it to another on the ground that he would be unjustly enriched if here were permitted to retain it, a constructive trust arises." Restatement (First) of Restitution § 160 (1937).
2. All rights, title, and interest in the '351, '388, and '312 patent vested in Compak by operation of law when the patents were issued.



3. The imposition of a constructive trust to transfer legal title to the plaintiff is needless because Compak, had, and continues to have, legal title to the patents.
4. The plaintiff's request for an imposition of a constructive trust over all revenues derived from or traceable to the Patents subsequent to March 19, 2003 should be denied because the plaintiff has failed to prove its claim for a constructive trust.
5. "A constructive trust will not be imposed unless the complaint makes specific allegations of wrongdoing, such as fraud, breach of fiduciary duty, duress, coercion or mistake." *Amendola v. Bayer*, 907 F.2d 760, 763 (7<sup>th</sup> Cir. 1990).
6. Here, the plaintiffs have made no specific allegation or showing that the revenues were improperly transferred or paid.
7. Even if the plaintiff proved its claim for a constructive trust, the issue of whether this court should impose a constructive trust over all revenues derived from or traceable to the Patents subsequent to March 19, 2003, is mooted by the interpleader action filed by DuoTech (03 A 03898) and subsequent related settlements.
8. In connection with the interpleader action, DuoTech had deposited quarterly deposits with the Clerk of the Court of what it contends are royalties due and owing in connection with its use of the 106, 351, 312 and/or 388 Patents (the "Interpleader Royalty Fund").
9. This court entered an order approving compromise and settlement of claims in the interpleader action on November 29, 2007 ("Order Approving Settlement").
10. The Order Approving Settlement authorized the Trustees "to assign and sell to DuoTech any and all the rights, titles and interests that either of the Trustees has or *may have or claim to have.*" (emphasis added) See paragraph 3 of the Order Approving Settlement.

11. Final adjudication of count I in accordance with the proposed conclusions set forth above resolves many of the questions as to the rights, titles, and interest that the parties may have or claim to have.
12. An imposition of a constructive trust is not necessary because the proper remedy lies in the interpleader action.
13. The DuoTech Defendants' motion for summary judgment regarding count I should be granted.

Dated: June 25, 2008

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Bruce W. Black", written over a horizontal line.

Bruce W. Black  
Bankruptcy Judge

**U.S. Bankruptcy Court  
Northern District of Illinois (Chicago)  
Adversary Proceeding #: 04-04028  
Internal Use Only**

*Assigned to:* Honorable Judge Bruce W. Black  
*Related BK Case:* 02-22594  
*Related BK Title:* Compak Corporation  
*Related BK Chapter:* 7  
*Demand:* \$2000000  
*Nature[s] of Suit:* 498 Other Action

*Date Filed:* 11/05/04

**08CV4665  
JUDGE CONLON  
MAG. JUDGE NOLAN**

**Plaintiff**

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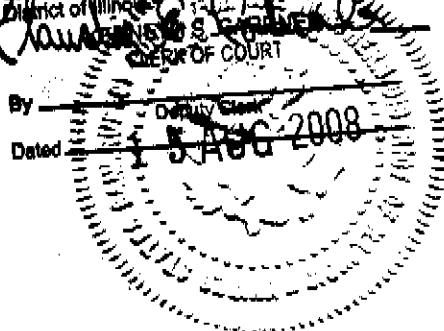
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This is to certify that the within and attached document is a full, true and correct copy of the original thereof as the same appears on file in the office of the Clerk of the United States Bankruptcy Court for the Northern District of Illinois.



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V.

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**Counter-Claimant**

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**Duotech Packaging LLC**

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V.

**Counter-Defendant**

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**Counter-Claimant**

**Joseph Baldi, Chapter 7 Trustee of the  
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V.

**Counter-Defendant**

**The Compak Companies Inc**

Filing Date	#	Docket Text
11/05/2004	<a href="#"><u>1</u></a>	456 (Declaratory Judgment): Received Certified Copy of Transfer Order from The U S District Court Northern District of Illinois Case Number, 03C7427 . (Cabralles, Claudia) Additional attachment(s) added on 11/19/2004 (Agnello, Joseph). (Entered: 11/05/2004)
11/05/2004	<a href="#"><u>2</u></a>	Adversary Proceeding Cover Sheet Filed by Ann W Lopez on behalf of The Compak Companies Inc . (Cabralles, Claudia) Additional attachment(s) added on 11/19/2004 (Agnello, Joseph). (Entered: 11/05/2004)

		11/05/2004)
11/17/2004	● <u>3</u>	Appearance Filed by Faye B Feinstein on behalf of Bruce Carlson , Duotech Holdings Inc , Duotech Packaging LLC . (Seamann, Pamela) (Entered: 11/18/2004)
11/17/2004	● <u>4</u>	Appearance Filed by Christopher Combest on behalf of Bruce Carlson , Duotech Holdings Inc , Duotech Packaging LLC . (Seamann, Pamela) (Entered: 11/18/2004)
12/15/2004	● <u>5</u>	Notice of Motion and Motion to Extend Time To Answer Or Plead Filed by Faye B Feinstein on behalf of Bruce Carlson , Duotech Holdings Inc , Duotech Packaging LLC . (Attachments: # <u>1</u> Proposed Order) (Ramey, Dorothy) (Entered: 12/17/2004)
12/20/2004	● <u>6</u>	Notice of Motion and Motion to Extend Time answer or otherwise plead Filed by Donna B Wallace on behalf of Joseph Baldi. Hearing scheduled for 12/22/2004 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Proposed Order) (Wallace, Donna) (Entered: 12/20/2004)
12/20/2004	● <u>7</u>	Amended Notice of Motion Filed by Donna B Wallace on behalf of Joseph Baldi (RE: <u>6</u> Motion to Extend Time, ). Hearing scheduled for 12/22/2004 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Wallace, Donna) (Entered: 12/20/2004)
12/22/2004	● <u>8</u>	Order Granting Motion to Extend Time through and including 1/4/2005(Related Doc # <u>5</u> ). Signed on 12/22/2004. (Green, Ron) (Entered: 12/23/2004)
12/22/2004	● <u>10</u>	Order Granting Motion to Extend Time (Related Doc # <u>6</u> ). Signed on 12/22/2004. (Ramey, Dorothy) (Entered: 12/28/2004)
12/27/2004	● <u>9</u>	Notice of Motion and Motion to Extend Time to Answer or Otherwise Plead Filed by Christopher Combest on behalf of Bruce Carlson , Duotech Holdings Inc , Duotech Packaging LLC . Hearing scheduled for 12/29/2004 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Proposed Order) (Chavez, Baldo) (Entered: 12/28/2004)
12/28/2004	● <u>11</u>	Certificate of Mailing/Service Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>9</u> Motion to Extend Time, ). (Combest, Christopher) (Entered: 12/28/2004)
12/29/2004	● <u>12</u>	Order Granting Motion to Extend Time through and including February 9, 2005 (Related Doc # <u>9</u> ). Signed on 12/29/2004.

		(Hamilton, Annette) (Entered: 12/30/2004)
12/29/2004	● <u>13</u>	Order Scheduling re: oral motion to extend time within which the trustee for estate of Jimmie L Johnson to file its answer or otherwise plead to complaint . Responses due by 2/9/2005. Signed on 12/29/2004 (Camacho, Marilyn) (Entered: 12/30/2004)
01/03/2005	● <u>15</u>	Certificate of Service Filed by Christopher Combest on behalf of Bruce Carlson , Duotech Holdings Inc , Duotech Packaging LLC (RE: <u>12</u> Order on Motion to Extend Time). (Chavez, Baldo) (Entered: 01/05/2005)
01/05/2005	● <u>14</u>	Hearing Continued (RE: <u>1</u> Received Transfer Order). Status hearing to be held on 2/16/2005 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Thoma, Susan) (Entered: 01/05/2005)
02/07/2005	● <u>16</u>	Notice of Motion and Motion to Extend Time to Answer or Plead Filed by Christopher Combest on behalf of Bruce Carlson , Duotech Holdings Inc , Duotech Packaging LLC . Hearing scheduled for 2/9/2005 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Proposed Order) (Green, Ron) (Entered: 02/09/2005)
02/15/2005	● <u>17</u>	Notice of Motion and Motion to Dismiss Adversary Proceeding Filed by Christopher Combest on behalf of Bruce Carlson , Duotech Holdings Inc , Duotech Packaging LLC . Hearing scheduled for 2/16/2005 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Appendix # <u>2</u> Appendix # <u>3</u> Proposed Order) (Beckerman, Steve) (Entered: 02/16/2005)
02/16/2005	● <u>18</u>	Order Scheduling (RE: <u>17</u> Motion to Dismiss Adversary Proceeding, ). Reply due by: 4/27/2005 Responses due by 3/28/2005. Status hearing to be held on 5/11/2005 at 10:30 AM . Signed on 2/16/2005 (Camacho, Marilyn) (Entered: 02/17/2005)
02/26/2005	● <u>19</u>	Hearing Continued Status hearing to be held on 5/11/2005 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Thoma, Susan) (Entered: 02/26/2005)
03/09/2005	● <u>20</u>	Notice of Motion and Motion to/for Motion to Dismiss. Filed by Donna B Wallace on behalf of Joseph Baldi. Hearing scheduled for 5/11/2005 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Proposed Order) (Wallace, Donna) (Entered: 03/09/2005)
03/24/2005	● <u>21</u>	Notice of Motion and Motion to Extend Time To File Response To



		Motion to Dismiss filed by Defendants Duo Tech Holdings Inc, Duo Tech Packaging LLC, and Bruce Carlson Filed by Stephen Scallan on behalf of The Compak Companies Inc . Hearing scheduled for 3/30/2005 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Proposed Order) (Epps, Wanda) (Entered: 03/25/2005)
03/28/2005	● <u>22</u>	Notice of Limited Joinder Filed by Charles Riecke on behalf of David P Leibowitz (RE: <u>17</u> Motion to Dismiss Adversary Proceeding, ). (Camacho, Marilyn) (Entered: 03/30/2005)
03/30/2005	● <u>23</u>	Order Scheduling (RE: <u>21</u> Motion to Extend Time, ). Reply due by: 5/16/2005 Responses due by 4/15/2005. Signed on 3/30/2005 (Hamilton, Annette) (Entered: 03/31/2005)
04/13/2005	● <u>24</u>	Notice of Motion and Motion to Withdraw as Co-Counsel Filed by Jeffrey Cole . Hearing scheduled for 4/20/2005 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Chavez, Baldo) (Entered: 04/14/2005)
04/13/2005	● <u>25</u>	Notice of Motion and Motion to Extend Time File Response to Motion to Dismiss Filed by Jeffrey Cole on behalf of The Compak Companies Inc . Hearing scheduled for 4/20/2005 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Proposed Order) (Epps, Wanda) (Entered: 04/14/2005)
04/15/2005	● <u>26</u>	Notice of Withdrawal Filed by Jeffrey Cole on behalf of The Compak Companies Inc (RE: <u>24</u> Motion to Withdraw as Attorney). (Hamilton, Annette) (Entered: 04/18/2005)
04/20/2005	● <u>27</u>	Hearing Continued (RE: <u>24</u> Motion to Withdraw as Attorney). Hearing scheduled for 4/27/2005 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 04/20/2005)
04/20/2005	● <u>28</u>	Order Granting Motion to Extend Time (Related Doc # <u>25</u> ). Signed on 4/20/2005. (Epps, Wanda) (Entered: 04/21/2005)
04/26/2005	● <u>29</u>	Notice of Motion and Motion to Withdraw as Attorney Filed by Jeffrey Cole on behalf of The Compak Companies Inc . Hearing scheduled for 5/4/2005 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Proposed Order) (Green, Ron) (Entered: 04/27/2005)
04/27/2005	● <u>30</u>	Order Granting Motion To Withdraw As Attorney (Related Doc # <u>24</u> ). Signed on 4/27/2005. (Hamilton, Annette) (Entered: 05/05/2005)

05/04/2005	● <u>31</u>	Order Granting Motion To Withdraw As Attorney (Related Doc # 29). Signed on 5/4/2005. (Hamilton, Annette) (Entered: 05/11/2005)
05/06/2005	● <u>32</u>	Response to (related document(s): <u>17</u> Motion to Dismiss Adversary Proceeding, ) Filed by Stephen Scallan on behalf of The Compak Companies Inc (Attachments: # <u>1</u> Exhibit # <u>2</u> Exhibit # <u>3</u> Exhibit # <u>4</u> Exhibit # <u>5</u> Exhibit # <u>6</u> Exhibit) (Epps, Wanda) (Entered: 05/11/2005)
05/11/2005	● <u>34</u>	Order Granting Motion to Join (Related Doc # <u>20</u> ). Signed on 5/11/2005. (Chavez, Baldo) (Entered: 05/13/2005)
05/12/2005	● <u>33</u>	Hearing Continued Status hearing to be held on 6/8/2005 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Thoma, Susan) (Entered: 05/12/2005)
05/31/2005	● <u>35</u>	Notice of Motion and Motion to Extend Time to File Reply (ROUTINE MOTION) Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC. Hearing scheduled for 6/2/2005 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Proposed Order) (Combest, Christopher) (Entered: 05/31/2005)
06/02/2005	● <u>36</u>	Order Granting Motion to Extend Time through and including 6/20/2005 (Related Doc # <u>35</u> ). Signed on 6/2/2005. (Hamilton, Annette) (Entered: 06/03/2005)
06/08/2005	● <u>37</u>	Hearing Continued (RE: <u>1</u> Received Transfer Order). Status hearing to be held on 7/20/2005 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Castellano, Nancy) (Entered: 06/08/2005)
06/14/2005	● <u>38</u>	Notice of Motion and Motion to Extend Time to File Reply (ROUTINE MOTION) Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC. Hearing scheduled for 6/16/2005 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Proposed Order) (Combest, Christopher) (Entered: 06/14/2005)
06/16/2005	● <u>39</u>	Order Granting Motion to Extend Time (Related Doc # <u>38</u> ). Signed on 6/16/2005. (Cabrales, Claudia) (Entered: 06/17/2005)
06/29/2005	● <u>40</u>	Reply to (related document(s): <u>32</u> Response, ) Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (Combest, Christopher) (Entered: 06/29/2005)
06/29/2005	● <u>41</u>	Notice of Filing Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>40</u>

		Reply). (Combest, Christopher) (Entered: 06/29/2005)
07/27/2005	● <u>42</u>	Hearing Continued (RE: <u>1</u> Status hearing to be held on 9/7/2005 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Thoma, Susan) (Entered: 07/27/2005)
07/28/2005	● <u>43</u>	Order Scheduling (RE: <u>17</u> Motion to Dismiss Adversary Proceeding, )Motion Denied. Answer due by: 8/31/2005. Status hearing to be held on 9/7/2005 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. Signed on 7/28/2005 (Cabrales, Claudia) (Entered: 08/04/2005)
08/31/2005	● <u>44</u>	Answer to Complaint, Counterclaim by Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC against The Compak Companies Inc Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC. (Attachments: # (1) Exhibit A# 2 Exhibit B# 3 Exhibit C)(Combest, Christopher) (Entered: 08/31/2005)
08/31/2005	● <u>46</u>	Answer to (related document(s): <u>1</u> Received Transfer Order) Filed by Steven J Rosenberg on behalf of Olmarc Packaging Co (Cabrales, Claudia) (Entered: 09/01/2005)
08/31/2005	● <u>47</u>	Statement Rule 7007.1(a) Filed by Steven J Rosenberg on behalf of Olmarc Packaging Co . (Cabrales, Claudia) (Entered: 09/01/2005)
08/31/2005	● <u>48</u>	Notice of Filing Filed by Steven J Rosenberg on behalf of Olmarc Packaging Co (RE: <u>46</u> Answer, <u>47</u> Statement). (Cabrales, Claudia) (Entered: 09/01/2005)
09/01/2005	● <u>45</u>	Notice of Filing Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>44</u> Answer to Complaint,, Counterclaim, ). (Combest, Christopher) (Entered: 09/01/2005)
09/01/2005	● <u>49</u>	Amended Notice of Filing Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>44</u> Answer to Complaint,, Counterclaim, ). (Combest, Christopher) (Entered: 09/01/2005)
09/01/2005	● <u>50</u>	Statement Under Local Rule 7007-1 (Corporate Disclosure Statement) Filed by Christopher Combest on behalf of Duotech Holdings Inc. (Combest, Christopher) (Entered: 09/01/2005)
09/01/2005	● <u>51</u>	Notice of Filing Filed by Christopher Combest on behalf of Duotech Holdings Inc (RE: <u>50</u> Statement). (Combest, Christopher) (Entered: 09/01/2005)

09/01/2005	● <u>52</u>	Answer to Complaint, Counterclaim by Joseph Baldi against The Compak Companies Inc Filed by Donna B Wallace on behalf of Joseph Baldi. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit A cont.# <u>3</u> Exhibit B# <u>4</u> Exhibit C)(Wallace, Donna) (Entered: 09/01/2005)
09/07/2005	● <u>53</u>	Hearing Continued Status hearing to be held on 11/9/2005 at 10:00 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Castaneda, Peter) (Entered: 09/07/2005)
09/22/2005	● <u>54</u>	Answer to (related document(s): <u>44</u> Answer to Complaint, , Counterclaim, ) Filed by Stephen Scallan on behalf of The Compak Companies Inc (Chavez, Baldo) (Entered: 09/26/2005)
09/22/2005	● <u>55</u>	Order Scheduling . Status hearing to be held on 11/9/2005 at 10:00 AM . Signed on 9/22/2005 (Hamilton, Annette) (Entered: 09/29/2005)
10/27/2005	● <u>56</u>	Answer to Counterclaim Filed by Stephen Scallan on behalf of The Compak Companies Inc . (Beckerman, Steve) (Entered: 10/31/2005)
11/09/2005	● <u>57</u>	Hearing Continued Status hearing to be held on 1/18/2006 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Thoma, Susan) (Entered: 11/09/2005)
11/09/2005	● <u>58</u>	Notice of Motion and Motion to Dismiss Counter Claim Filed by Stephen Scallan on behalf of The Compak Companies Inc . Hearing scheduled for 11/23/2005 at 10:00 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Cabrales, Claudia) (Entered: 11/10/2005)
11/09/2005	● <u>59</u>	Notice of Motion and Motion for Default Judgment against Ron Bowen and in favor of The Compak Companies LLC Filed by Stephen Scallan on behalf of The Compak Companies Inc . Hearing scheduled for 11/23/2005 at 10:00 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Cabrales, Claudia) (Entered: 11/10/2005)
11/22/2005	● <u>60</u>	Objection to (related document(s): <u>59</u> Motion for Default Judgment, ) Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (Combest, Christopher) (Entered: 11/22/2005)
11/22/2005	● <u>61</u>	Notice of Filing Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>60</u> Objection). (Combest, Christopher) (Entered: 11/22/2005)
11/22/2005	● <u>62</u>	Certificate of Service Filed by Christopher Combest on behalf of

		Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>60</u> Objection, <u>61</u> Notice of Filing). (Combest, Christopher) (Entered: 11/22/2005)
11/23/2005	● <u>63</u>	Hearing Continued (RE: <u>58</u> ). Hearing Scheduled for 01/18/2006 at 10:30 AM at Courtroom 615 219 South Dearborn, Chicago, IL, 60604. (Nelson,Freddie) (Entered: 11/23/2005)
11/23/2005	● <u>64</u>	Hearing Continued (RE: <u>59</u> Default Judgment.). Hearing Scheduled for 01/18/2006 at 10:30 AM at Courtroom 615 219 South Dearborn, Chicago, IL, 60604. (Nelson,Freddie) (Entered: 11/23/2005)
11/23/2005	● <u>65</u>	Order Withdrawing (RE: <u>60</u> Objection). Signed on 11/23/2005 (Cabrales, Claudia) (Entered: 11/30/2005)
12/01/2005		Motions terminated (RE: <u>21</u> Motion to Extend Time,, <u>16</u> Motion to Extend Time,, <u>17</u> Motion to Dismiss Adversary Proceeding, ). (Cabrales, Claudia) (Entered: 12/01/2005)
12/20/2005	● <u>66</u>	Response to (related document(s): <u>58</u> Motion to Dismiss Counter Claim, ) Filed by Donna B Wallace on behalf of Joseph Baldi (Wallace, Donna) (Entered: 12/20/2005)
01/04/2006	● <u>67</u>	Appearance Filed by Philip Mann on behalf of The Compak Companies Inc . (Cabrales, Claudia) (Entered: 01/05/2006)
01/18/2006	● <u>79</u>	Order Withdrawing Motion to Dismiss Counter Claim (Related Doc # <u>58</u> ). Signed on 1/18/2006. (Cabrales, Claudia) (Entered: 02/09/2006)
01/20/2006	● <u>68</u>	Hearing Continued Status hearing to be held on 4/26/2006 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Castellano, Nancy) (Entered: 01/20/2006)
01/20/2006	● <u>69</u>	Hearing Continued (RE: <u>59</u> Default Judgment.). Hearing Scheduled for 04/26/2006 at 10:30 AM at Courtroom 615 219 South Dearborn, Chicago, IL, 60604. (Castellano,Nancy) (Entered: 01/20/2006)
01/20/2006	● <u>70</u>	Answer to Complaint Filed by Ariel Weissberg on behalf of Ron Bowen. (Weissberg, Ariel) (Entered: 01/20/2006)
01/20/2006	● <u>71</u>	Notice of Filing Filed by Ariel Weissberg on behalf of Ron Bowen (RE: <u>70</u> Answer to Complaint). (Weissberg, Ariel) (Entered: 01/20/2006)
02/01/2006	● <u>72</u>	<b>INCORRECT EVENT ENTERED</b> Order Granting Motion For Default Judgment (Related Doc # <u>59</u> ). Signed on 2/1/2006. (Cabrales, Claudia) Modified on 2/3/2006 (Camacho, Marilyn). (Entered: 02/01/2006)

		02/03/2006)
02/01/2006	● <u>74</u>	Order of Default Against Ron Bowen (RE: <u>59</u> Motion for Default Judgment, ). Signed on 2/1/2006 (Cabrales, Claudia) (Entered: 02/03/2006)
02/03/2006	● <u>73</u>	CORRECTIVE ENTRY INCORRECT EVENT ENTERED (RE: <u>72</u> Order on Motion for Default Judgment). (Camacho, Marilyn) (Entered: 02/03/2006)
02/06/2006	● <u>75</u>	Objection to Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (Attachments: # <u>1</u> Exhibit A - Complaint) (Combest, Christopher) (Entered: 02/06/2006)
02/06/2006	● <u>76</u>	Notice of Filing Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>75</u> Objection). (Combest, Christopher) (Entered: 02/06/2006)
02/06/2006	● <u>77</u>	Certificate of Service Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>75</u> Objection, <u>76</u> Notice of Filing). (Combest, Christopher) (Entered: 02/06/2006)
02/07/2006	● <u>78</u>	Notice of Motion and Uncontested Motion to Intervene Filed by Charles S Riecke on behalf of David P Leibowitz. Hearing scheduled for 2/16/2006 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Proposed Order and Minute Order) (Riecke, Charles) (Entered: 02/07/2006)
02/10/2006	● <u>80</u>	Notice of Motion and Motion to Vacate Filed by Ariel Weissberg on behalf of Ron Bowen. Hearing scheduled for 2/22/2006 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Weissberg, Ariel) (Entered: 02/10/2006)
02/16/2006	● <u>81</u>	Order Granting Motion To Intervene (Related Doc # <u>78</u> ). Signed on 2/16/2006. (Cabrales, Claudia) (Entered: 02/16/2006)
02/21/2006	● <u>82</u>	Notice of Motion and Motion For Summary Judgment in favor of The Compak Companies and against Duo Tech Holdings Inc Filed by Stephen Scallan on behalf of The Compak Companies Inc . Hearing scheduled for 3/1/2006 at 09:30 AM . (Cabrales, Claudia) (Entered: 02/22/2006)
02/21/2006	● <u>83</u>	Statement Filed by Stephen Scallan on behalf of The Compak Companies Inc (RE: <u>82</u> Motion for Summary Judgment, ). (Attachments: # <u>1</u> Exhibit # <u>2</u> Exhibit # <u>3</u> Exhibit # <u>4</u> Exhibit # <u>5</u>



		Exhibit # <u>6</u> Exhibit # <u>7</u> Exhibit) (Cabrales, Claudia) (Entered: 02/22/2006)
02/21/2006	● <u>84</u>	Notice Deposition Filed by Stephen Scallan (RE: <u>82</u> Motion for Summary Judgment, ). (Cabrales, Claudia) (Entered: 02/22/2006)
02/23/2006	● <u>85</u>	Amended Notice of Motion Filed by Ariel Weissberg on behalf of Ron Bowen (RE: <u>80</u> Motion to Vacate). Hearing scheduled for 3/8/2006 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Weissberg, Ariel) (Entered: 02/23/2006)
03/01/2006	● <u>86</u>	Hearing Continued (RE: <u>82</u> Summary Judgment,). Hearing Scheduled for 03/22/2006 at 10:30 AM at Courtroom 615 219 South Dearborn, Chicago, IL, 60604. (Thoma,Susan) (Entered: 03/01/2006)
03/09/2006	● <u>87</u>	Hearing Continued (RE: <u>80</u> Vacate,). Hearing Scheduled for 03/15/2006 at 10:30 AM at Courtroom 615 219 South Dearborn, Chicago, IL, 60604. (Thoma,Susan) (Entered: 03/09/2006)
03/16/2006	● <u>96</u>	Order Granting Motion To Vacate (Related Doc # <u>80</u> ). Signed on 3/16/2006. (Cabrales, Claudia) (Entered: 03/22/2006)
03/17/2006	● <u>88</u>	Objection to (related document(s): <u>82</u> Motion for Summary Judgment,, <u>83</u> Statement, ) Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (Combest, Christopher) Modified on 3/27/2006 to correct related to entry <u>82</u> only (Hamilton, Annette). (Entered: 03/17/2006)
03/17/2006	● <u>89</u>	Notice of Filing Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>88</u> Objection). (Combest, Christopher) (Entered: 03/17/2006)
03/17/2006	● <u>90</u>	<b>INCORRECT EVENT ENTERED, FILER NOTIFIED TO REFILE</b> in Opposition Statement Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>82</u> Motion for Summary Judgment,, <u>83</u> Statement, ). (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D# <u>5</u> Exhibit E) (Combest, Christopher) Modified on 3/22/2006 (Camacho, Marilyn). (Entered: 03/17/2006)
03/17/2006	● <u>91</u>	Notice of Filing Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>90</u> Statement, ). (Combest, Christopher) (Entered: 03/17/2006)
03/17/2006	● <u>92</u>	Certificate of Service Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>88</u> Objection, <u>89</u> Notice of Filing, <u>90</u> Statement,, <u>91</u> Notice of Filing).

		(Combest, Christopher) (Entered: 03/17/2006)
03/20/2006	● <u>93</u>	Notice of Motion and Motion to Compel Bruce Carlson and Duotech Holdings to Respond to Plaintiffs Discovery Requests Filed by Stephen Scallan on behalf of The Compak Companies Inc . Hearing scheduled for 3/22/2006 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Cabrales, Claudia) (Entered: 03/20/2006)
03/20/2006	● <u>95</u>	Reply to (related document(s): <u>94</u> Response, ) Filed by Stephen Scallan on behalf of The Compak Companies Inc (Cabrales, Claudia) Modified on 3/28/2006 to correct related document # <u>88</u> (Hamilton, Annette). (Entered: 03/22/2006)
03/21/2006	● <u>94</u>	Response in Opposition to (related document(s): <u>82</u> Motion for Summary Judgment,, <u>83</u> Statement, ) Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# (3) Exhibit C# <u>4</u> Exhibit D# <u>5</u> Exhibit E) (Combest, Christopher) Modified on 3/27/2006 to correct to relate to entry <u>83</u> only (Hamilton, Annette). (Entered: 03/21/2006)
03/22/2006	● <u>97</u>	Hearing Continued (RE: <u>93</u> Compel,). Hearing Scheduled for 03/29/2006 at 10:30 AM at Courtroom 615 219 South Dearborn, Chicago, IL, 60604. (Woods,Sharon) (Entered: 03/22/2006)
03/22/2006	● <u>98</u>	CORRECTIVE ENTRY INCORRECT EVENT ENTERED, FILER NOTIFIED TO REFILE (RE: <u>90</u> Statement, ). (Camacho, Marilyn) (Entered: 03/22/2006)
03/27/2006	● <u>99</u>	CORRECTIVE ENTRY to correct related to entry <u>82</u> only (RE: <u>88</u> Objection, ). (Hamilton, Annette) (Entered: 03/27/2006)
03/27/2006	● <u>100</u>	CORRECTIVE ENTRY to correct to relate to entry <u>83</u> only (RE: <u>94</u> Response, ). (Hamilton, Annette) (Entered: 03/27/2006)
03/28/2006	● <u>101</u>	CORRECTIVE ENTRY to correct related document # <u>88</u> (RE: <u>95</u> Reply). (Hamilton, Annette) (Entered: 03/28/2006)
03/29/2006	● <u>102</u>	Agreed Order Granting Motion To Compel (Related Doc # <u>93</u> ). Signed on 3/29/2006. (Cabrales, Claudia) (Entered: 03/29/2006)
03/30/2006	● <u>103</u>	Notice of Motion and Motion To Supplement its Summary Judgement Response Filed by Stephen Scallan on behalf of The Compak Companies Inc . Hearing scheduled for 4/5/2006 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Supplement) (Ross, Demetrius) (Entered: 03/30/2006)



		03/31/2006)
03/31/2006	● <u>104</u>	Amended Notice of Motion and Certificate of Service Filed by Stephen Scallan on behalf of The Compak Companies Inc (RE: <u>103</u> Generic Motion, ). Hearing scheduled for 4/5/2006 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Ross, Demetrius) (Entered: 04/03/2006)
04/04/2006	● <u>105</u>	Objection to (related document(s): <u>103</u> Generic Motion, ) Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (Combest, Christopher) (Entered: 04/04/2006)
04/04/2006	● <u>106</u>	Notice of Filing Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>105</u> Objection). (Combest, Christopher) (Entered: 04/04/2006)
04/04/2006	● <u>107</u>	Certificate of Service Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>105</u> Objection, <u>106</u> Notice of Filing). (Combest, Christopher) (Entered: 04/04/2006)
04/05/2006	● <u>108</u>	Order Denying Motion (Related Doc # <u>103</u> ). Signed on 4/5/2006. (Cabrales, Claudia) (Entered: 04/06/2006)
04/26/2006	● <u>109</u>	Hearing Continued (RE: <u>1</u> Received Transfer Order). Status hearing to be held on 7/26/2006 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 04/26/2006)
04/26/2006	● <u>110</u>	Order Denying Motion For Summary Judgment (Related Doc # <u>82</u> ). Signed on 4/26/2006. (Pruitt, Debra) (Entered: 04/28/2006)
04/27/2006	● <u>111</u>	Notice of Motion and Motion For Reconsideration of the Courts Denial of Partial Summary Judgement Filed by Stephen Scallan on behalf of The Compak Companies Inc . Hearing scheduled for 5/5/2006 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Cabrales, Claudia) (Entered: 04/28/2006)
05/02/2006	● <u>112</u>	Amended Notice of Motion Filed by Stephen Scallan on behalf of The Compak Companies Inc (RE: <u>111</u> Generic Motion, ). Hearing scheduled for 5/11/2006 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Cabrales, Claudia) (Entered: 05/03/2006)
05/09/2006	● <u>113</u>	Objection to (related document(s): <u>111</u> Generic Motion, ) Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings

		Inc, Duotech Packaging LLC (Combest, Christopher) (Entered: 05/09/2006)
05/09/2006	● <u>114</u>	Notice of Filing Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>113</u> Objection). (Combest, Christopher) (Entered: 05/09/2006)
05/09/2006	● <u>115</u>	Certificate of Service Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>113</u> Objection, <u>114</u> Notice of Filing). (Combest, Christopher) (Entered: 05/09/2006)
05/11/2006	● <u>116</u>	Order Denying Motion (Related Doc # <u>111</u> ). Signed on 5/11/2006. (Cabrales, Claudia) (Entered: 05/12/2006)
06/06/2006	● <u>117</u>	Notice of Motion and Second Motion to Compel Defendants Carlson and Duotech Holdings to Respond to Plaintiffs Discovery Requests Filed by Stephen Scallan on behalf of The Compak Companies Inc . Hearing scheduled for 6/15/2006 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Cabrales, Claudia) (Entered: 06/07/2006)
06/15/2006	● <u>118</u>	Order Denying Motion To Compel without prejudice. (Related Doc # <u>117</u> ). Signed on 6/15/2006. (Cabrales, Claudia) (Entered: 06/16/2006)
06/19/2006	● <u>119</u>	Notice of Motion and Renewed Second Motion to Compel Duotech Holdings INC , Duotech Packaging Inc and Bruce Carlson to Production of Documents Filed by Stephen Scallan on behalf of The Compak Companies Inc . Hearing scheduled for 6/22/2006 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Proposed Order # <u>2</u> Exhibit # <u>3</u> Exhibit # <u>4</u> Exhibit # <u>5</u> Exhibit # <u>6</u> Exhibit # <u>7</u> Exhibit) (Cabrales, Claudia) (Entered: 06/20/2006)
06/21/2006	● <u>120</u>	Response to (related document(s): <u>119</u> Motion to Compel, ) Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (Attachments: # <u>1</u> Proposed Order) (Combest, Christopher) (Entered: 06/21/2006)
06/21/2006	● <u>121</u>	Notice of Filing Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>120</u> Response). (Combest, Christopher) (Entered: 06/21/2006)
06/21/2006	● <u>122</u>	Certificate of Service Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>120</u> Response, <u>121</u> Notice of Filing). (Combest, Christopher) (Entered: 06/21/2006)

06/22/2006	● <u>123</u>	Order Granting Motion To Compel Respondents to comply with the documents requests on or before 7/21/2006. Order Denying Plaintiff's request for sanctions. (Related Doc # <u>119</u> ). Signed on 6/22/2006. (Camacho, Marilyn) (Entered: 06/23/2006)
07/27/2006	● <u>124</u>	Hearing Continued Status hearing to be held on 10/25/2006 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Smith, Lester) (Entered: 07/27/2006)
10/25/2006	● <u>125</u>	Hearing Continued (RE: <u>1</u> Transfer Case). Status hearing to be held on 1/17/2007 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Beckerman, Steve) (Entered: 10/25/2006)
01/17/2007	● <u>126</u>	Hearing Continued (RE: <u>1</u> Transfer Case). Status hearing to be held on 4/25/2007 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 01/17/2007)
02/05/2007	● <u>127</u>	Notice of Motion and Motion for Administrative Order Setting Briefing Schedule on Motions for Summary Judgment Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC. Hearing scheduled for 2/8/2007 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Proposed Order Administrative Order Setting Briefing Schedule) (Combest, Christopher) (Entered: 02/05/2007)
02/06/2007	● <u>128</u>	Certificate of Service Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>127</u> Motion for Administrative Order, ). (Combest, Christopher) (Entered: 02/06/2007)
02/08/2007	● <u>129</u>	Order Granting Motion for Administrative Order Regarding Briefing Schedule For Summary Judgement Motions. (Related Doc # <u>127</u> ). Signed on 2/8/2007. (Cabrales, Claudia) (Entered: 02/09/2007)
02/13/2007	● <u>130</u>	Notice of Motion and Motion to Withdraw as Attorney Filed by Joshua Whiteside , Andrew Staes , Stephen Scallan on behalf of The Compak Companies Inc . Hearing scheduled for 2/28/2007 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Cabrales, Claudia) Additional attachment(s) added on 2/16/2007 (Hamilton, Annette). Modified on 2/16/2007 to attach correct PDF (Hamilton, Annette). (Entered: 02/14/2007)
02/13/2007	● <u>131</u>	Notice of Hearing of Rule to Show Cause with Certificate of Service against Joshua J Whiteside for Not Filing Electronically . Hearing scheduled for 3/1/2007 at 10:00 AM at 219 South Dearborn, Courtroom 744, Chicago, Illinois 60604. (Cabrales, Claudia) (Entered: 02/14/2007)

02/16/2007	● <u>132</u>	CORRECTIVE ENTRY to attach correct PDF (RE: <u>130</u> Motion to Withdraw as Attorney, ). (Hamilton, Annette) (Entered: 02/16/2007)
02/23/2007	● <u>133</u>	Objection to (related document(s): <u>130</u> Motion to Withdraw as Attorney, ) Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B) (Combest, Christopher) (Entered: 02/23/2007)
02/23/2007	● <u>134</u>	Notice of Filing Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>133</u> Objection). (Combest, Christopher) (Entered: 02/23/2007)
02/23/2007	● <u>135</u>	Certificate of Service Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>133</u> Objection, <u>134</u> Notice of Filing). (Combest, Christopher) (Entered: 02/23/2007)
02/27/2007	● <u>136</u>	Notice of Motion and Motion to Dismiss Counts N/A of Adversary Proceeding Filed by Joshua J Whiteside on behalf of The Compak Companies Inc. Hearing scheduled for 3/1/2007 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Rule 56 Statement of Facts# <u>2</u> Exhibit List# <u>3</u> Exhibit 1# <u>4</u> Exhibit 2# <u>5</u> Exhibit 3# <u>6</u> Exhibit 4b# <u>7</u> Exhibit 4c# <u>8</u> Exhibit 4d# <u>9</u> Exhibit 5# <u>10</u> Exhibit 6# <u>11</u> Exhibit 7# <u>12</u> Exhibit 8# <u>13</u> Exhibit 9# <u>14</u> Exhibit 10# <u>15</u> Exhibit 11# <u>16</u> Exhibit 12# <u>17</u> Exhibit 13# <u>18</u> Exhibit 14# <u>19</u> Exhibit 15# <u>20</u> Exhibit 16# <u>21</u> Exhibit 17# <u>22</u> Exhibit 18a# <u>23</u> Exhibit 18b# <u>24</u> Exhibit 19a# <u>25</u> Exhibit 19b# <u>26</u> Exhibit 19c# <u>27</u> Exhibit 19d# <u>28</u> Exhibit 20a# <u>29</u> Exhibit 20b# <u>30</u> Exhibit 20c# <u>31</u> Exhibit 20d# <u>32</u> Exhibit 20e# <u>33</u> Exhibit 20f# <u>34</u> Exhibit 20g# <u>35</u> Exhibit 20h# <u>36</u> Exhibit 3# <u>37</u> Proposed Order) (Whiteside, Joshua) (Entered: 02/27/2007)
02/27/2007	● <u>137</u>	Notice and Certificate of Service Certificate of Service Only Filed by Joshua J Whiteside on behalf of The Compak Companies Inc (RE: <u>136</u> Motion to Dismiss Certain Counts of Adversary Proceeding,,, ). (Whiteside, Joshua) (Entered: 02/27/2007)
02/27/2007	● <u>138</u>	Amended Certificate of Service Filed by Joshua J Whiteside on behalf of The Compak Companies Inc. (Whiteside, Joshua) (Entered: 02/27/2007)
02/28/2007	● <u>140</u>	Order Granting Motion To Withdraw As Attorney (Related Doc # <u>130</u> ). Signed on 2/28/2007. (Cabrales, Claudia) (Entered: 03/05/2007)
03/01/2007	● <u>139</u>	Hearing Concluded (RE: <u>131</u> Notice of Hearing of Rule to Show Cause for Not Filing Electronically, ). (Williams, Velda) (Entered: 03/01/2007)

03/01/2007	● <u>142</u>	Order Denying Motion to Dismiss Certain Counts of Adversary Proceeding (Related Doc # <u>136</u> ). Movant having not appeared; it is hereby ordered the motion is Denied for want of prosecution. Signed on 3/1/2007. (Cabrera, Claudia) (Entered: 03/08/2007)
03/07/2007	● <u>141</u>	Certificate of Service Filed by Joshua J Whiteside on behalf of The Compak Companies Inc (RE: <u>140</u> Order on Motion to Withdraw as Attorney). (Whiteside, Joshua) (Entered: 03/07/2007)
03/09/2007	● <u>143</u>	Notice of Motion and Motion For Summary Judgment in favor of Defendants Duo Tech Holdings, Inc., DuoTech Packaging, LLC, and Bruce Carlson and against Plaintiff Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC. (Attachments: # <u>1</u> Proposed Order) (Combest, Christopher) (Entered: 03/09/2007)
03/09/2007	● <u>144</u>	Memorandum in Support Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>143</u> Motion for Summary Judgment, ). (Combest, Christopher) (Entered: 03/09/2007)
03/09/2007	● <u>145</u>	Notice of Filing Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>144</u> Memorandum). (Combest, Christopher) (Entered: 03/09/2007)
03/09/2007	● <u>146</u>	Statement Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>143</u> Motion for Summary Judgment, ). (Combest, Christopher) (Entered: 03/09/2007)
03/09/2007	● <u>147</u>	Notice of Filing Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>146</u> Statement). (Combest, Christopher) (Entered: 03/09/2007)
03/09/2007	● <u>148</u>	Supplement Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>146</u> Statement). (Attachments: # <u>1</u> Exhibit A-Patent Complaint (Part 1)# <u>2</u> Exhibit A-Patent Complaint (Part 2)# <u>3</u> Exhibit B-PatPak License# <u>4</u> Exhibit C-Assignment and Acceptance of Agreements# <u>5</u> Exhibit D-DuoTech License# <u>6</u> Exhibit E-Answer of DuoTech Defendants# <u>7</u> Exhibit F-DuoTech Packaging Articles# <u>8</u> Exhibit G-Compak Original Schedule F# <u>9</u> Exhibit H-Compak Amended Schedule F# <u>10</u> Exhibit I-Compak Schedule G# <u>11</u> Exhibit J-Compak Sale Motion# <u>12</u> Exhibit K-DuoTech Holdings Articles# <u>13</u> Exhibit L-Compak Procedures Order# <u>14</u> Exhibit M-BMJ Sale Objection# <u>15</u> Exhibit N-Compak Sale Order# <u>16</u> Exhibit O-Sale Transcript# <u>17</u> Exhibit P-Compak Equity Holders# <u>18</u> Exhibit Q-Sale Hearing Transcript# <u>19</u> Exhibit R-Plaintiff's Response# <u>20</u> Exhibit S-Compak Schedules A and B# <u>21</u> Exhibit T-Referral Order and Opinion# <u>22</u> Exhibit U-

		Plaintiff LLC Documents (Part 1)# <u>23</u> Exhibit U-Plaintiff LLC Documents (Part 2)# <u>24</u> Exhibit V-Affidavit) (Combest, Christopher) (Entered: 03/09/2007)
03/09/2007	● <u>149</u>	Notice of Filing Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>148</u> Supplement,,,. ). (Combest, Christopher) (Entered: 03/09/2007)
03/09/2007	● <u>150</u>	Certificate of Service Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>146</u> Statement, <u>144</u> Memorandum, <u>143</u> Motion for Summary Judgment,, <u>147</u> Notice of Filing, <u>145</u> Notice of Filing, <u>148</u> Supplement,,,,, <u>149</u> Notice of Filing). (Combest, Christopher) (Entered: 03/09/2007)
03/13/2007	● <u>151</u>	Second Certificate of Service Filed by Joshua J Whiteside on behalf of The Compak Companies Inc (RE: <u>140</u> Order on Motion to Withdraw as Attorney). (Attachments: # <u>1</u> Exhibit 1) (Whiteside, Joshua) (Entered: 03/13/2007)
03/23/2007	● <u>152</u>	Appearance for Robert M. Fishman Filed by George J. Spathis on behalf of The Compak Companies Inc. (Spathis, George) (Entered: 03/23/2007)
03/23/2007	● <u>153</u>	Appearance Filed by George J. Spathis on behalf of The Compak Companies Inc. (Spathis, George) (Entered: 03/23/2007)
03/23/2007	● <u>154</u>	Appearance for Rebecca Hanson Filed by George J. Spathis on behalf of The Compak Companies Inc. (Spathis, George) (Entered: 03/23/2007)
04/20/2007	● <u>155</u>	Notice of Motion and Motion to Extend Time to file response to motion for summary judgment Filed by George J. Spathis on behalf of The Compak Companies Inc. Hearing scheduled for 4/25/2007 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Proposed Order) (Spathis, George) (Entered: 04/20/2007)
04/25/2007	● <u>156</u>	Hearing Continued (RE: <u>143</u> Motion for Summary Judgment,, <u>1</u> Transfer Case). Status hearing to be held on 7/25/2007 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 04/25/2007)
04/25/2007	● <u>157</u>	Order Granting Motion to Extend Time (Related Doc # <u>155</u> ). Signed on 4/25/2007. (Ramey, Dorothy) (Entered: 04/27/2007)
05/21/2007	● <u>158</u>	Response in Opposition to (related document(s): <u>143</u> Motion for



		Summary Judgment, ) Filed by George J. Spathis on behalf of The Compak Companies Inc (Spathis, George) (Entered: 05/21/2007)
05/21/2007	● <u>159</u>	Response to (related document(s): <u>146</u> Statement) Filed by George J. Spathis on behalf of The Compak Companies Inc (Attachments: # <u>1</u> Appendix Ex. 1# <u>2</u> Appendix Exs. 2-7# <u>3</u> Appendix Exs. 8-11# <u>4</u> Appendix Exs. 12-17# <u>5</u> Appendix Exs. 18-19# <u>6</u> Appendix Exs. 20-23# <u>7</u> Appendix Ex. 24# <u>8</u> Appendix Exs. 25-40# <u>9</u> Appendix Exs. 41-42# <u>10</u> Appendix Exs. 43-50# <u>11</u> Appendix Exs. 51-55# <u>12</u> Appendix Exs. 56-59# <u>13</u> Appendix Exs. 60-61# <u>14</u> Appendix Exs. 62-78) (Spathis, George) (Entered: 05/21/2007)
05/21/2007	● <u>160</u>	Notice of Motion and Uncontested Motion for Leave to File Responses Instanter and Exceed Page Limitation Filed by George J. Spathis on behalf of The Compak Companies Inc. Hearing scheduled for 5/31/2007 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Proposed Order) (Spathis, George) (Entered: 05/21/2007)
05/31/2007	● <u>161</u>	Order Granting Motion for Leave (Related Doc # <u>160</u> ). The motion is granted, Plaintiffs Responses are deemed filed. The DuoTech Defendants shall have to and including July 17, 2007 to file their reply in support of their motion. Signed on 5/31/2007. (Cabrals, Claudia) (Entered: 06/06/2007)
07/16/2007	● <u>162</u>	Notice of Motion and Motion to Extend Time to File Reply in Support of Summary Judgment Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC. Hearing scheduled for 7/18/2007 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Proposed Order) (Combest, Christopher) (Entered: 07/16/2007)
07/18/2007	● <u>163</u>	Order Granting Motion to Extend Time (Related Doc # <u>162</u> ). The time within which Duo Tech must file its reply papers in support of its motion for summary judgement (Adv. Docket No. 143) is hereby extended through and including July 31, 2007. Signed on 7/18/2007. (Cabrals, Claudia) (Entered: 07/19/2007)
07/25/2007	● <u>164</u>	Hearing Stricken (RE: <u>1</u> Transfer Case). (Nelson, Freddie) (Entered: 07/25/2007)
07/25/2007	● <u>165</u>	Hearing Stricken (RE: <u>143</u> Motion for Summary Judgment, ). (Nelson, Freddie) (Entered: 07/25/2007)
07/25/2007	● <u>166</u>	Hearing Continued (RE: <u>1</u> Transfer Case). Status hearing to be held on 8/22/2007 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Nelson, Freddie) (Entered: 07/25/2007)

07/25/2007	● <u>167</u>	Hearing Continued (RE: <u>143</u> Motion for Summary Judgment, ). Status hearing to be held on 8/22/2007 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Nelson, Freddie) (Entered: 07/25/2007)
07/31/2007	● <u>168</u>	Reply in Support to (related document(s): <u>158</u> Response, <u>143</u> Motion for Summary Judgment, ) Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (Attachments: # <u>1</u> Appendix) (Combest, Christopher) (Entered: 07/31/2007)
07/31/2007	● <u>169</u>	Notice of Filing Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>168</u> Reply). (Combest, Christopher) (Entered: 07/31/2007)
07/31/2007	● <u>170</u>	Response to (related document(s): <u>159</u> Response, ) Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (Combest, Christopher) (Entered: 07/31/2007)
07/31/2007	● <u>171</u>	Notice of Filing Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>170</u> Response). (Combest, Christopher) (Entered: 07/31/2007)
07/31/2007	● <u>172</u>	Notice of Motion and Motion to Strike Portions of (A) Plaintiff's Response to the DuoTech Defendants' Statement of Undisputed Material Facts, and (B) Plaintiff's Statement of Additonal Material Facts, and (II) for Other Relief Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC. Hearing scheduled for 8/8/2007 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Combest, Christopher) (Entered: 07/31/2007)
08/08/2007	● <u>173</u>	Hearing Continued (RE: <u>172</u> Strike,). Hearing Scheduled for 08/22/2007 at 10:30 AM at Courtroom 615 219 South Dearborn, Chicago, IL, 60604. (Davis,Shurray) (Entered: 08/08/2007)
08/22/2007	● <u>174</u>	Hearing Continued (RE: <u>172</u> Motion to Strike,, <u>1</u> Transfer Case). Status hearing to be held on 10/3/2007 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 08/22/2007)
08/22/2007	● <u>175</u>	Hearing Continued (RE: <u>143</u> Motion for Summary Judgment, ). Hearing scheduled for 10/3/2007 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 08/22/2007)



08/22/2007	●176	Order Scheduling (RE: <u>1</u> Transfer Case). Hearing scheduled for 10/3/2007 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. Reply due by: 9/26/2007 Responses due by 9/12/2007. Signed on 8/22/2007 (Cabrales, Claudia) (Entered: 08/24/2007)
09/14/2007	●177	Response to (related document(s): <u>172</u> Motion to Strike, ) Filed by George J. Spathis on behalf of The Compak Companies Inc (Attachments: # <u>1</u> Exhibit A and B) (Spathis, George) (Entered: 09/14/2007)
09/28/2007	●178	Reply in Support to (related document(s): <u>172</u> Motion to Strike,, <u>177</u> Response) Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (Combest, Christopher) (Entered: 09/28/2007)
09/28/2007	●179	Notice of Filing Filed by Christopher Combest on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>178</u> Reply). (Combest, Christopher) (Entered: 09/28/2007)
10/04/2007	●180	Hearing Continued (RE: <u>1</u> Transfer Case). Status hearing to be held on 10/24/2007 at 11:00 AM at 219 South Dearborn, Courtroom 619, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 10/04/2007)
10/04/2007	●181	Hearing Continued (RE: <u>143</u> Motion for Summary Judgment,, <u>172</u> Motion to Strike, ). Hearing scheduled for 10/24/2007 at 11:00 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 10/04/2007)
10/24/2007	●182	Hearing Continued (RE: <u>143</u> Summary Judgment). Hearing Scheduled for 11/07/2007 at 11:00 AM at Courtroom 615 219 South Dearborn, Chicago, IL, 60604. (Davis,Shurray) (Entered: 10/24/2007)
10/24/2007	●183	Hearing Continued (RE: <u>172</u> Strike). Hearing Scheduled for 11/07/2007 at 11:00 AM at Courtroom 615 219 South Dearborn, Chicago, IL, 60604. (Davis,Shurray) (Entered: 10/24/2007)
10/24/2007	●184	Hearing Continued (RE: <u>1</u> Transfer Case). Status hearing to be held on 11/7/2007 at 11:00 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 10/24/2007)
11/07/2007	●185	Hearing Continued (RE: <u>143</u> Motion for Summary Judgment,, <u>172</u> Motion to Strike,, <u>1</u> Transfer Case). Status hearing to be held on 11/14/2007 at 11:00 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 11/07/2007)
11/14/2007	●186	Hearing Continued (RE: <u>143</u> Motion for Summary Judgment,, <u>172</u>

		Motion to Strike,, <u>1</u> Transfer Case). Status hearing to be held on 11/29/2007 at 11:00 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 11/14/2007)
12/03/2007	● <u>187</u>	Hearing Continued (RE: <u>143</u> Motion for Summary Judgment,, <u>172</u> Motion to Strike,, <u>1</u> Transfer Case). Status hearing to be held on 12/18/2007 at 11:00 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 12/03/2007)
12/18/2007	● <u>188</u>	Hearing Continued (RE: <u>1</u> Transfer Case). Status hearing to be held on 1/16/2008 at 11:00 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Nelson, Freddie) (Entered: 12/18/2007)
12/18/2007	● <u>189</u>	Hearing Continued (RE: <u>143</u> Summary Judgment). Hearing Scheduled for 01/16/2008 at 11:00 AM at Courtroom 615 219 South Dearborn, Chicago, IL, 60604. (Nelson,Freddie) (Entered: 12/18/2007)
12/18/2007	● <u>190</u>	Hearing Continued (RE: <u>172</u> Strike). Hearing Scheduled for 01/16/2008 at 11:00 AM at Courtroom 615 219 South Dearborn, Chicago, IL, 60604. (Nelson,Freddie) (Entered: 12/18/2007)
01/02/2008	● <u>191</u>	Notice of Motion and Motion to Withdraw as Attorney Filed by Christopher Combest on behalf of Quarles & Brady LLP. Hearing scheduled for 1/16/2008 at 11:00 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Proposed Order) (Combest, Christopher) (Entered: 01/02/2008)
01/16/2008	● <u>192</u>	Hearing Continued (RE: <u>143</u> Motion for Summary Judgment,, <u>172</u> Motion to Strike,, <u>1</u> Transfer Case). Status hearing to be held on 3/26/2008 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 01/16/2008)
01/16/2008	● <u>193</u>	<b>INCORRECT EVENT ENTERED</b> Order Withdrawing Motion To Withdraw As Attorney (Related Doc # <u>191</u> ). Signed on 1/16/2008. (Hamilton, Annette) Modified on 4/9/2008 (Hamilton, Annette). (Entered: 01/17/2008)
01/16/2008	● <u>200</u>	Order Granting Motion To Withdraw As Attorney (Related Doc # <u>191</u> ). Signed on 1/16/2008. (Hamilton, Annette) (Entered: 04/09/2008)
01/17/2008		Terminated Attorney Christopher Combest . (Hamilton, Annette) (Entered: 01/17/2008)
03/17/2008	● <u>194</u>	Request For Additional Time to Locate An Attorney Filed by Bruce Carlson . (Epps, Wanda) (Entered: 03/18/2008)

03/17/2008	● <u>195</u>	Certificate of Service Filed by Bruce Carlson (RE: <u>194</u> Request). (Epps, Wanda) (Entered: 03/18/2008)
03/27/2008	● <u>196</u>	Hearing Continued (RE: <u>143</u> Motion for Summary Judgment,, <u>172</u> Motion to Strike,, <u>1</u> Transfer Case). Status hearing to be held on 4/24/2008 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 03/27/2008)
03/27/2008	● <u>198</u>	Order Denying - Request for additional time to locate an attorney (RE: <u>194</u> Request). IT IS ORDERED: The motion to adversary case 04 A 4028 is denied on its merits under the circumstances of the case. Signed on 3/27/2008 (Cabrera, Claudia) (Entered: 04/01/2008)
03/31/2008	● <u>197</u>	Notice of Motion and Motion for Default against Bruce Carlson, Duotech Holdings, Inc. and Duotech Packaging, LLC and in favor of The Compak Companies, LLC Filed by Allen J Guon on behalf of The Compak Companies Inc. Hearing scheduled for 4/3/2008 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Proposed Order) (Guon, Allen) (Entered: 03/31/2008)
04/03/2008	● <u>199</u>	(E)Order Withdrawing Motion for Default (Related Doc # <u>197</u> ). Signed on 04/03/2008. (Beckerman, Steve) (Entered: 04/03/2008)
04/09/2008		Reopen Document (RE: <u>191</u> Motion to Withdraw as Attorney, ). (Hamilton, Annette) (Entered: 04/09/2008)
04/24/2008	● <u>201</u>	Hearing Continued (RE: <u>143</u> Motion for Summary Judgment,, <u>172</u> Motion to Strike,, <u>1</u> Transfer Case). Status hearing to be held on 5/1/2008 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 04/24/2008)
04/24/2008	● <u>202</u>	Appearance Filed by Steven E Anderson on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC. (Anderson, Steven) (Entered: 04/24/2008)
04/29/2008	● <u>203</u>	Memorandum MEMORANDUM OF TRUSTEES REGARDING STATUS OF CASES AND PRESENT EFFECT OF ORDER OF NOVEMBER 29, 2007 Filed by Joseph A Baldi on behalf of Joseph Baldi, David P Leibowitz. (Baldi, Joseph) (Entered: 04/29/2008)
05/01/2008	● <u>204</u>	Hearing Continued (RE: <u>143</u> Motion for Summary Judgment,, <u>172</u> Motion to Strike,, <u>1</u> Transfer Case). Status hearing to be held on 5/14/2008 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 05/01/2008)
05/14/2008	● <u>205</u>	Hearing Continued (RE: <u>1</u> Transfer Case). Status hearing to be held

		on 5/28/2008 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 05/14/2008)
05/27/2008	●206	Hearing Continued (RE: <u>143</u> Summary Judgment). Hearing Scheduled for 05/28/2008 at 10:30 AM at Courtroom 615 219 South Dearborn, Chicago, IL, 60604. (Smith,Lester) (Entered: 05/27/2008)
05/27/2008	●207	Hearing Continued (RE: <u>172</u> Strike). Hearing Scheduled for 05/28/2008 at 10:30 AM at Courtroom 615 219 South Dearborn, Chicago, IL, 60604. (Smith,Lester) (Entered: 05/27/2008)
05/28/2008	●208	Hearing Continued (RE: <u>143</u> Motion for Summary Judgment,, <u>1</u> Transfer Case). Status hearing to be held on 6/4/2008 at 11:00 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 05/28/2008)
05/28/2008	●209	Order Granting in part, Denying in part Motion to Strike (Related Doc # <u>172</u> ). Signed on 5/28/2008. (Cabrales, Claudia) (Entered: 05/29/2008)
05/28/2008	●210	Order Granting Motion For Summary Judgment (Related Doc # <u>143</u> ). Parties granted leave to file additional supplement by or before 4:30 p.m. on May 30, 2008. This matter is continued to June 4, 2008 at 11:00 a.m. Signed on 5/28/2008. (Cabrales, Claudia) (Entered: 05/29/2008)
05/30/2008	●211	Notice of Motion and Motion to Vacate Filed by George J. Spathis on behalf of The Compak Companies Inc. Hearing scheduled for 6/4/2008 at 11:00 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Exhibit # <u>2</u> Proposed Order Granting Motion to Reconsider and Partially Vacating May 28, 2008 Order Regarding Admissibility of Exhibits and Statements of Fact Based Thereon) (Spathis, George) (Entered: 05/30/2008)
06/04/2008	●212	Hearing Continued (RE: <u>143</u> Summary Judgment). Hearing Scheduled for 06/10/2008 at 02:30 PM at Courtroom 615 219 South Dearborn, Chicago, IL, 60604. (Davis,Shurray) (Entered: 06/04/2008)
06/04/2008	●213	Hearing Continued (RE: <u>211</u> Vacate). Hearing Scheduled for 06/10/2008 at 02:30 PM at Courtroom 615 219 South Dearborn, Chicago, IL, 60604. (Davis,Shurray) (Entered: 06/04/2008)
06/04/2008	●214	Hearing Continued (RE: <u>1</u> Transfer Case). Status hearing to be held on 6/10/2008 at 02:30 PM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 06/04/2008)
06/10/2008	●215	Hearing Continued (RE: <u>1</u> Transfer Case). Status hearing to be held

		on 6/25/2008 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 06/10/2008)
06/10/2008	● <u>216</u>	Hearing Continued (RE: 143 Summary Judgment). Hearing Scheduled for 06/25/2008 at 10:30 AM at Courtroom 615 219 South Dearborn, Chicago, IL, 60604. (Davis,Shurray) (Entered: 06/10/2008)
06/10/2008	● <u>217</u>	Order Granting Motion To Reeconsider and Partially Vacating May 28, 2008 Order Regarding Admissibility of Exhibits and Statements of Fact Based Thereon (Related Doc # <u>211</u> ). Signed on 6/10/2008. (Cabrales, Claudia) (Entered: 06/11/2008)
06/25/2008	● <u>218</u>	Hearing Continued (RE: 1 Transfer Case). Status hearing to be held on 7/23/2008 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 06/25/2008)
06/25/2008	● <u>219</u>	Proposed Finding of Facts and Conclusions of Law Pursuant to Rule 9033 . Objections due by 7/7/2008 Transmission Due by 7/7/2008. (Cabrales, Claudia) (Entered: 06/25/2008)
06/25/2008	● <u>220</u>	Certificate of Service (RE: <u>219</u> Proposed Finding of Facts and Conclusions of Law 9033). (Cabrales, Claudia) (Entered: 06/25/2008)
07/07/2008	● <u>221</u>	Notice of Motion and Motion to Extend Time File Objections to Proposed Findings of Facts and Conclusions of Law Filed by Allen J Guon on behalf of The Compak Companies Inc. Hearing scheduled for 7/9/2008 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Proposed Order) (Guon, Allen) (Entered: 07/07/2008)
07/07/2008	● <u>222</u>	Response to (related document(s): <u>221</u> Motion to Extend Time, ) Filed by Steven E Anderson on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (Anderson, Steven) (Entered: 07/07/2008)
07/07/2008	● <u>223</u>	Objection to (related document(s): <u>219</u> Proposed Finding of Facts and Conclusions of Law 9033) Filed by Steven E Anderson on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (Anderson, Steven) (Entered: 07/07/2008)
07/07/2008	● <u>224</u>	Notice of Filing of DuoTech's Objection to Proposed Findings of Fact and Conclusions of Law Filed by Steven E Anderson on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (RE: <u>223</u> Objection). (Anderson, Steven) (Entered: 07/07/2008)
07/07/2008	● <u>225</u>	Notice of Motion and Amended Motion (related document(s): <u>221</u> Motion to Extend Time, ) Filed by Steven E Anderson on behalf of

		Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC. (Anderson, Steven) (Entered: 07/07/2008)
07/09/2008	● <u>226</u>	Certificate of Service Filed by Allen J Guon on behalf of The Compak Companies Inc (RE: <u>221</u> Motion to Extend Time, ). (Guon, Allen) (Entered: 07/09/2008)
07/09/2008	● <u>227</u>	Order Granting Motion to Extend Time (Related Doc # <u>221</u> ), Granting Amended Motion (Related Doc # <u>225</u> ). Amendment Objection due by 7/25/2008. Signed on 7/9/2008. (Cabrera, Claudia) (Entered: 07/10/2008)
07/23/2008	● <u>228</u>	Hearing Continued (RE: 1 Transfer Case). Status hearing to be held on 8/13/2008 at 10:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 07/23/2008)
07/25/2008	● <u>229</u>	Joinder In Objection to (related document(s): <u>223</u> Objection) Filed by David P Leibowitz ESQ on behalf of David P Leibowitz (Leibowitz, David) (Entered: 07/25/2008)
07/25/2008	● <u>230</u>	Notice of Filing Filed by Trustee David P Leibowitz (RE: <u>229</u> Objection). (Leibowitz, David) (Entered: 07/25/2008)
07/25/2008	● <u>231</u>	Objection to (related document(s): <u>219</u> Proposed Finding of Facts and Conclusions of Law 9033) Filed by George J. Spathis on behalf of The Compak Companies Inc (Attachments: # <u>1</u> Exhibit 32# <u>2</u> Exhibit 33# <u>3</u> Exhibit 34# <u>4</u> Exhibit 56# <u>5</u> Exhibit 57# <u>6</u> Exhibit 59# <u>7</u> Exhibit 60 Part 1# <u>8</u> Exhibit 60 Part 2# <u>9</u> Exhibit 62# <u>10</u> Exhibit 66) (Spathis, George) (Entered: 07/25/2008)
07/25/2008	● <u>232</u>	Joinder In Objection to (related document(s): <u>223</u> Objection) Filed by Joseph A Baldi Tr on behalf of Joseph Baldi (Baldi, Joseph) (Entered: 07/25/2008)
08/04/2008	● <u>233</u>	Response to (related document(s): <u>229</u> Objection, <u>232</u> Objection, <u>223</u> Objection) Filed by George J. Spathis on behalf of The Compak Companies Inc (Spathis, George) (Entered: 08/04/2008)
08/04/2008	● <u>234</u>	Response to (related document(s): <u>231</u> Objection, ) Filed by Steven E Anderson on behalf of Bruce Carlson, Duotech Holdings Inc, Duotech Packaging LLC (Anderson, Steven) (Entered: 08/04/2008)
08/08/2008	● <u>235</u>	Notice of Motion and Motion for Leave to Amend Its Objections to Proposed Findings Of Fact And Conclusions Of Law Filed by Allen J Guon on behalf of The Compak Companies Inc. Hearing scheduled for 8/14/2008 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Proposed

		Order Granting Plaintiff's Motion for Leave to File Amended Objections to the Court's Proposed Findings of Fact and Conclusions of Law) (Guon, Allen) (Entered: 08/08/2008)
08/13/2008	●236	Hearing Continued (RE: 1 Transfer Case). Status hearing to be held on 8/14/2008 at 09:30 AM at 219 South Dearborn, Courtroom 615, Chicago, Illinois 60604. (Davis, Shurray) (Entered: 08/13/2008)



**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

In re:

COMPAK CORPORATION,

Debtor.

COMMUNION PACKAGING  
COMPANY, an Illinois corporation,

Debtor.

THE COMPAK COMPANIES, LLC,

Plaintiff,

v.

JIMMIE L. JOHNSON, RON BOWEN,  
BRUCE CARLSON, PATPAK, INC.,  
DUOTECH HOLDINGS, INC.,  
DUOTECH PACKAGING, LLC, AND  
OLMARC PACKAGING COMPANY,

Defendants.

Case No. 02 B 22594  
Honorable Bruce W. Black  
Chapter 7

Case No. 02 B 39188  
Chapter 7  
Honorable Bruce W. Black

(Jointly Administered)

Adv. No. 04 A 04028

**08CV4665  
JUDGE CONLON  
MAG. JUDGE NOLAN**

**OBJECTIONS TO THE PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF  
LAW PURSUANT TO BANKRUPTCY RULE 9033 AND LOCAL RULE 9033-1**

DuoTech Holdings, Inc., DuoTech Packaging LLC and Bruce Carlson (collectively hereafter "DuoTech") by and through its attorneys Barnes & Thornburg LLP, in accordance with Fed. R. Bank. P. 9033 and Local Rule 9033-1 respectfully object to the Proposed Findings of Fact and Conclusions of Law entered by the Bankruptcy Court on June 25, 2008 as follows:



### Introduction

DuoTech agrees with the ultimate conclusion reached by the Bankruptcy Court that summary judgment should enter in its favor on Counts I and II of the Complaint. DuoTech, respectfully, objects to certain conclusions of law rendered by the Bankruptcy Court when reaching this conclusion. Pursuant to Bankruptcy Rule 9033, the District Court should review the findings of facts and conclusions of law in the June 25, 2008 order on a *de novo* basis.

DuoTech disagrees with the Bankruptcy Court findings in four (4) principal areas. First, the Bankruptcy Court found that the transfer of the '351, '388, and '312 patents from Jimmie Johnson ("Johnson") to Patpak was invalid, and, as a result, those patents were owned by Compak. However, when these bankruptcy cases were filed, Patpak was the record owner of the '351, '388, and '312 patents. Any such action by Compak to assert or challenge ownership of these patents was a bankruptcy cause of action under Section 547 or 548 of the Bankruptcy Code. Bankruptcy causes of action were excluded from the assets sold by the 2003 Sale Order<sup>1</sup>, so any such claim by Plaintiff is barred as a collateral attack on the 2003 Sale Order or by *res judicata*. Further, only a Chapter 7 trustee or debtor-in-possession, and not Plaintiff, could prosecute these claims. No such action was instituted and the statute of limitations on these claims expired on June 10, 2004.

Second, the Bankruptcy Court found that existence of the DuoTech License<sup>2</sup> nullified the need to determine ownership of the '351, '388, and '312 patents since DuoTech held the license right to use the patents. However, as shown above, Patpak, not Compak, owned the '351, '388,

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<sup>1</sup> The term "2003 Sale Order" refers to the order entered in March, 2003 approving the asset sale between the bankruptcy estate of Compak and BMJ, plaintiff's assignee.

<sup>2</sup> The term "Patpak License" refers to the license agreement whereby Patpak licensed rights to the '351, '388 and '312 patents to Compak. The term "DuoTech License" refers to the license agreement whereby Compak licensed rights to the '106, '351, '388 and '312 patents to DuoTech.

and '312 patents. Therefore, they were not included in the 2003 Sale Order and were instead purchased by DuoTech through the Settlement Agreement.<sup>3</sup>

Third, the Bankruptcy Court found that Plaintiff, by the 2003 Sale Order, assumed the DuoTech License and, as a result, acts as licensor of the '106 and the '351, '388, and '312 patents to DuoTech. However, no Bankruptcy Court order approved assumption and assignment of the DuoTech License by Plaintiff.<sup>4</sup> Since neither license was assumed by Plaintiff, they remained with the Bankruptcy estate after the 2003 Sale Order. Also, since the DuoTech License is for intellectual property and Compak was the licensor in that agreement, Section 365(n) of the Bankruptcy Code allows DuoTech, the licensee, to retain its rights under the DuoTech License. The obligations imposed on the bankruptcy estate for this retention of rights under Section 365(n) was purchased by DuoTech in the Settlement Agreement. DuoTech's purchase, of all of Patpak's assets through the Settlement Agreement, makes DuoTech the outright owner of the '351, '388, and '312 patents. Plaintiff's ownership rights to the disputed patents is limited to ownership of the '106 patent. Therefore, any license fee to be paid by DuoTech should be limited to use of the '106 patent.

Fourth, and finally, the DuoTech License gave DuoTech the rights to its attorneys' fees and expenses incurred in protecting its rights to the '106, '351, '388, and '312 patents. Here, DuoTech should be entitled to recoup its fees thus expended against the royalty payments held by this Court and, if these funds are insufficient to cover these fees, against future royalty payments to Plaintiff for the '106 patent.

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<sup>3</sup> The term "Settlement Agreement" refers to the agreement approved by the Bankruptcy Court on November 29, 2007 whereby DuoTech, *inter alia*, purchased all of the remaining assets of the Compak, Communion Packaging Company, Patpak and Jimmie Johnson bankruptcy estates.

<sup>4</sup> Reference to "Plaintiff" also includes BMJ since BMJ was the counterparty with the estate in the 2003 Sale Order and thereafter assigned its rights to Plaintiff.

Based on these areas of contention, DuoTech hereby objects to Conclusions of Law (Count II) numbers 2, 3, 4, 8, and 18. DuoTech also objects to Conclusions of Law (Count I) numbers 2 and 3. Additionally, DuoTech respectfully suggests that additional Conclusions of Law be entered. Detail on these objections follows.

## **OBJECTIONS TO THE BANKRUPTCY'S COURTS PROPOSED CONCLUSIONS OF LAW**

### **Objection to Paragraph 2 of Count II**

DuoTech objects to the Bankruptcy Court's proposed finding of law, Count II, ¶2, which states:

2. By virtue of Johnson's assignment of his rights, title, and interest in the pending '106 patent and any related inventions to Compak, Johnson was divested of any transferable interest in the '351, '388, and '312 patents.

**Basis for objection:** DuoTech objects to this proposed conclusion of law because the question of patent ownership was never properly before the Bankruptcy Court. In its original Complaint, Plaintiff alleged a complex scheme of transactions initiated to deprive the Compak bankruptcy estate of pre-petition property. Compl. at ¶¶16-54. Assume, *arguendo*, this to be true. An action to recover property wrongfully taken from the Compak estate would lie with Sections 547 (preference) or 548 (fraudulent transfer) of the Bankruptcy Code. But, neither BMJ Partners ("BMJ") nor Plaintiff purchased Compak's bankruptcy causes of action. Nor could they since these causes of action were explicitly excluded from the asset sale. (*see* Mot. for Summ. J. Mem., Sale Order, Supp. Tab "N", at ¶ 6, Docket No. 143) Therefore, any such action by Plaintiff is an impermissible collateral attack on the Asset Sale Order and barred by *res judicata*. (*see* DuoTech's Mot. for Summ. J. Mem. at 7-8, Docket No. 143)

Relatedly, neither BMJ nor Plaintiff has standing to bring any action to address the alleged fraudulent or preferential transfer of the '351, '388, and '312 patents from Compak's bankruptcy estate. *Id.* Assuming *arguendo*, that grounds existed to bring such an action, the only party with the requisite standing to bring this suit would be Compak's chapter 7 trustee, or, prior to the case's conversion, the debtor-in-possession. No such case was ever filed. Further, pursuant to 11 U.S.C. § 546(a), the last day to commence such a proceeding was June 10, 2004. (*see* DuoTech's Mot. for Summ. J. Mem. at 7-8, Docket No. 143).

For these reasons, DuoTech respectfully requests that this Court substitute the Bankruptcy Court's proposed conclusion of law ¶2 under Count II with:

2. At the time of the bankruptcy, Compak owned all rights, title, and interest in the '106 patent while Patpak owned all rights, title, and interest in the '351, '388, and '312 patents.

DuoTech further requests that this Court supplement the proposed conclusions of law with the following conclusions, as supported by the factual record of the case and reasoning provided above:

- Compak's bankruptcy causes of actions were excluded from the 363 sale<sup>5</sup>.
- Standing to bring any preference or fraudulent transfer action would have been vested in the Compak trustee or debtor-in-possession.
- The statute of limitations for the commencement of any fraudulent or preferential transfer actions expired on June 10, 2004.

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<sup>5</sup> To the extent a suggested or objected to Conclusion of Law is deemed a Finding of Fact, DuoTech requests that its objection and/or suggestion be deemed a Finding of Fact.

**Objection to Paragraph 3 of Count II**

DuoTech objects to the Bankruptcy Court's proposed finding of law, Count II, ¶3, which states:

3. All rights, title, and interest in the '351, '388, and '312 patent vested in Compak by operation of law when the patents were issued.

**Basis for objection:** DuoTech restates the basis of its objection to ¶2 of Count II. DuoTech respectfully requests that this Court omit ¶3 under Count II.

**Objection to Paragraph 4 of Count II**

DuoTech objects to the Bankruptcy Court's proposed finding of law, Count II, ¶4, which states:

4. The purported Patpak license was invalid because Johnson had given up his rights, title, and interest in the patents.

**Basis for objection:** DuoTech restates the basis of its objection to ¶2 of Count II.

Furthermore, through their actions, BMJ and Plaintiff have acknowledged a lack of ownership in the '351, '388, and '312 patents. (*see generally*, Joint Order of Chapter 7 Trustees For Approval of Settlement Agreement, Interpleader Adv. Case No. 03 A 03898, Docket #124). Specifically, after the 2003 Sale Order, Plaintiff and BMJ sought to buy all rights, title and interests in the '351, '388, and '312 patents from the Patpak and Compak chapter 7 trustees but was outbid by DuoTech. *Id.* Trying to buy these assets after the 2003 Sale Order shows that even Plaintiff and BMJ thought they did not own the '351, '388, and '312 patents.

It is uncontested that the only patent expressly identified in the Compak Asset Sale Motion or the Notice of Sale was the '106 patent. The '351, '388, and '312 patents were not

referenced and the recent actions of all of the parties actively involved in the case show that the Patpak estate continued to own these patents. The Bankruptcy Court approved and entered the Settlement Agreement which sold the '351, '388, and '312 patents to DuoTech.

But, the Bankruptcy Court never approved, by separate order under Section 365 of the Bankruptcy Code, the assumption and assignment of the DuoTech License by Plaintiff. License agreements are executory contracts within the meaning of Section 365 of the Bankruptcy Code. *See In re Superior Toy & Mfg. Co. Inc.*, 78 F.3d 1169 (7th Cir. 1996) (holding trademark license executory); *Novon Intern.*, 2000 U.S. Dist. LEXIS 5169, 2000 WL 432848 (viewing patent license as executory); *In re Catapult Entertainment, Inc.*, 165 F.3d 747 (9th Cir. 1999) (recognizing patent license as executory); *In re Kmart Corp.*, 290 B.R. 614, 619 (Bankr. N.D. Ill. 2003). In order for an executory contract to be sold pursuant to 11 U.S.C. § 363, "it must first be assumed, and then assigned" in compliance with 11 U.S.C. § 365. *In re Dartmouth Audio, Inc.*, 42 B.R. 871, 877 (Bankr. D.N.H. 1984). Assumption of a contract "commits the estate to full performance under the contract[.]" *United Air Lines, Inc. v. U.S. Bankr. Trust Nat'l Ass'n as Tr. (In re UAL Corp.)*, 346 B.R. 456, 467 (Bankr. N.D. Ill. 2006). Furthermore, "only the court can approve the debtor's proposed assumption." *In re Dehon, Inc.*, 352 B.R. 546, 560 (Bankr. D. Mass. 2006). Accordingly, "[i]t is not possible under Section 365 of the Bankruptcy Code to simply 'sell' a lease or executory contract." *In re Dartmouth Audio, Inc.*, 42 B.R. 871, 877 (Bankr. D.N.H. 1984).

Therefore, the sale of the DuoTech License through the 2003 Sale Order was improper and invalid because the license had not properly been assumed by Compak and subsequently assigned to BMJ with the Bankruptcy Court's approval as required by 11 U.S.C. § 365. *See also In re FBI Dist. Corp.*, 330 F.3d 36, 45 (1st Cir. 2003) ("the plain text of section 365 requires

express approval by the court"). Accordingly, due to the improper omission of steps explicitly required by the Bankruptcy Code, the DuoTech License remained the property of the Compak bankruptcy estate. Since neither license was assumed by Plaintiff, they remained with the Bankruptcy estate after the 2003 Sale Order. Furthermore, the DuoTech License is for intellectual property and Compak was the licensor in that agreement, Section 365(n) of the Bankruptcy Code allows DuoTech, the licensee, to retain its rights under the DuoTech License. The obligations imposed on the bankruptcy estate for this retention of rights under Section 365(n) was purchased by DuoTech in the Settlement Agreement. By purchasing all of Patpak's assets through the Settlement Agreement, DuoTech has outright ownership of the '351, '388, and '312 patents. Plaintiff's ownership rights to the disputed patents is limited to ownership of the '106 patent. Therefore, any license fee to be paid by DuoTech should be limited to the '106 license.

For these reasons, DuoTech respectfully requests that this Court substitute the Bankruptcy Court's proposed conclusion of law ¶4 under Count II with:

4. The Patpak license to Compak for use of the '351, '388, and '312 remains valid, and DuoTech now owns the '351, '388, and '312 patents.

#### **Objection to Paragraph 8 of Count II**

DuoTech objects to the Bankruptcy Court's proposed finding of law, Count II, ¶8, which states:

8. That Compak owned all four patents, rather than being a licensee from Patpak for three of them, is not legally significant in light of Compak's clear grant of a license to Holdings regarding all four patents.



**Basis for objection:** DuoTech restates the basis of its objections to ¶2 & ¶4 of Count II. For these reasons, DuoTech respectfully requests that this Court substitute the Bankruptcy Court's proposed conclusion of law ¶8 under Count II with:

8. It is clear that Compak granted a license to Holdings for all four patents. DuoTech owns, outright, the '351, '388, and '312 patents and by operation of 365(n) of the Bankruptcy retains the right to use the '106 patent. Any royalty payment made to the bankruptcy estate shall be limited to the value of the '106 patent.

**Objection to Paragraphs 18 & 19 of Count II**

DuoTech objects to the Bankruptcy Court's proposed finding of law, Count II, ¶¶ 18 & 19, which state:

18. Accordingly, the DuoTech License was not adversely affected by the Sale Order, and anything in that order to the contrary is void. The 2003 Sale Order is otherwise valid and fully enforceable. See *In re Metzger*, 346 B.R. 806, 819 (Bkrcty. N.D. Cal. 2006).

19. It follows that BMJ Partners acquired Compak's interest in the DuoTech License through its purchase of the debtors' assets and that BMJ assumed the DuoTech License Agreement.

**Basis for objection:** DuoTech restates the basis of its objections to ¶¶2, 4 and 8 of Count II and further objects that each conclusion provides Plaintiff with unsought relief. Throughout its pleadings, Plaintiff has taken the position that the DuoTech License was extinguished by the 2003 Sale Order. Plaintiff nor BMJ requested that the Court enforce or ratify the DuoTech License. To the contrary, the very act of suing DuoTech for patent infringement, on the basis the DuoTech License was invalid from inception, is demonstrative of the Plaintiff's belief that the DuoTech License was not enforceable. (*see* Compl. at ¶44 ("In short, the DuoTech 'license' is a nullity" . . .)). Specifically, in its initial Complaint, Plaintiff argued that "[t]he purported

August 29, 2001, Compak license of the Patents to DuoTech was pretextual and void[.]” Compl. at ¶40. Plaintiff and BMJ continued to demonstrate their collective disinterest in the assumption of the DuoTech License, stating “nothing suggested that the buyer [BMJ] would be assuming any license granted to a third party[.]” (see Plaintiff Resp. to DuoTech’s Mot. for Summ. J. at 3, Docket No. 159).

For these reasons, DuoTech respectfully requests that this Court substitute the Bankruptcy Court’s proposed conclusion of law ¶18 and ¶19 under Count II with:

18. Not having been properly assumed or assigned, the DuoTech License was not included as an asset transferred by the 2003 Sale Order, and anything in that order to the contrary is void.
19. The DuoTech License was not properly assumed by the Compak Estate and therefore could not be assumed, “sold,” or assigned to BMJ.

DuoTech further requests that this Court supplement the proposed conclusions of law with the following conclusions, as supported by the factual record of the case, precedent and reasoning above:

- BMJ attempted to purchase the ‘351, ‘388 and ‘312 patents, but was out bid by DuoTech.
- By Settlement Agreement dated January 3, 2008, the Trustee for the Patpak Bankruptcy estate sold the ‘351, ‘388, and ‘312 patents to DuoTech.

#### **Objection to Paragraph 20 of Count II**

DuoTech objects to the Bankruptcy Court’s proposed finding of law, Count II, ¶20, which states:

20. Section 365(d)(1) of the Bankruptcy Code does not apply to these facts because the DuoTech License was not an asset of the chapter 7 estate, having been purchased by BMJ Partners before the conversion to chapter 7.

**Basis for objection:** DuoTech restates the basis of its objection to ¶¶2, 4, 8, 18 &19 of Count II that the DuoTech License was not properly assumed and therefore could not be assigned to BMJ and thus reverted to the Compak chapter 7 estate. While the Trustee did not assume the license with 60 days, DuoTech continued to operate under the DuoTech License and on its own motion sought a determination from the Bankruptcy Court as to the proper payee of those royalties. (*see generally* DuoTech Compl., Interpleader Adv. Case No. 03 A 03898, Docket No. 1) While the Interpleader Action is still pending before the Bankruptcy Court, DuoTech has and will continue to pay royalties into the Interpleader Royalty Fund for the '106 patent. Thus, in accordance with 11 U.S.C. §§ 365(n)(1)-(2), the DuoTech License remains valid. Additionally, Section 9d of the DuoTech License gives DuoTech the right to its attorneys' fees and costs in defending its rights to the '106, '351, '388 and '312 patents, and the right to recoup these costs from any royalty payments.

For these reasons, DuoTech respectfully requests that this Court substitute the Bankruptcy Court's proposed conclusion of law ¶20 under Count II with:

20. Pursuant to Sections 365(n)(1)-(2) of the Bankruptcy Code, DuoTech's continued payment of royalties owing for the '106 Patent under the DuoTech License preserves the validity of license.

DuoTech further requests that this Court supplement the proposed conclusions of law with the following conclusions, as supported by the factual record of the case and reasoning above:

- DuoTech, pursuant to the DuoTech License, is entitled to its attorneys' fees and costs incurred in defending or protecting its rights to the '106, '351, '388 and '312 patents.
- DuoTech, upon presentment and approval by this Court of its fees incurred in defending or protecting its rights to the Patents, shall be entitled to recoup these fees against the royalty fees held by this Court.

- If the Funds held by the Clerk of Court are insufficient to pay the Fee award, any such outstanding fees may be recouped against any future royalty fees to be paid by DuoTech.

**Objection to Paragraph 2 of Count I**

DuoTech objects to the Bankruptcy Court's proposed finding of law, Count I, ¶2, which states:

2. All rights, title, and interest in the '351, '388, and '312 patent vested in Compak by operation of law when the patents were issued.

**Basis for objection:** DuoTech objects to ¶2 on the basis that ownership of the '351, '388, and '312 patents was never properly before the Bankruptcy Court because the Plaintiff lacks standing to assert any bankruptcy cause of action and restates its basis of objection for ¶2 of Count II. For the reasons already stated above, DuoTech respectfully requests that this Court omit proposed conclusion of law ¶2 under Count II.

**Objection to Paragraph 3 of Count I**

DuoTech objects to the Bankruptcy Court's proposed finding of law, Count I, ¶3, which states:

3. The imposition of a constructive trust to transfer legal title to the plaintiff is needless because Compak, had, and continues to have, legal title to the patents.

**Basis for objection:** DuoTech objects to ¶3 on the basis that ownership of the '351, '388, and '312 patents was never properly before the Bankruptcy Court because the Plaintiff lacks standing to assert any bankruptcy cause of action and restates its basis of objection for ¶2 of Count II.

For these reasons, DuoTech respectfully requests that this Court substitute the Bankruptcy Court proposed conclusion of law ¶3 under Count I with:

3. The imposition of a constructive trust to transfer legal title to the plaintiff is needless because plaintiff continues to have legal title to the '106 patent as did Patpak to the '351, '318, and '312 patent as of the petition date. Any rights of Patpak are now owned by DuoTech.

### **CONCLUSION**

DuoTech agrees with the ultimate conclusion reached by the Bankruptcy Court that summary judgment should enter in its favor on Counts I and II of the Complaint. DuoTech, respectfully, objects to certain proposed conclusions of law rendered by the Bankruptcy Court on the grounds that the Court granted Plaintiff's unsought relief by proposing that Plaintiff assumed the DuoTech License and ignored the Plaintiff's lack of standing to pursue bankruptcy causes of action resulting in the Court's improper determination of the patent ownership issue which was never properly before it.

DATED: July 7, 2008

DUOTECH HOLDINGS, INC.; DUOTECH PACKAGING, LLC  
and BRUCE CARLSON, Defendants

By: /s/ Daniel P. Albers  
One of their Attorneys

Daniel P. Albers (Atty. No. 6185037)  
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CHDS01 SANDERSON 473121v5

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**In re:**

**COMPAK CORPORATION.**

**Debtor.**

**COMMUNION PACKAGING  
COMPANY, an Illinois corporation,**

**Debtor.**

**THE COMPAK COMPANIES, LLC.**

**Plaintiff,**

 $\mathbf{y}_i$ 

**JIMMIE L. JOHNSON, RON BOWEN,  
BRUCE CARLSON, PATPAK, INC.,  
DUOTECH HOLDINGS, INC.,  
DUOTECH PACKAGING, LLC, AND  
OLMARC PACKAGING COMPANY.**

### Defendants.

**Case No. 02 B 22594**  
**Honorable Bruce W. Black**  
**Chapter 7**

**Case No. 02 B 39188**  
**Chapter 7**  
**Honorable Bruce W. Black**

**(Jointly Administered)**

**Adv. No. 04 A 04028**

**JOINDER OF TRUSTEES TO OBJECTIONS TO THE PROPOSED FINDINGS OF  
FACT AND CONCLUSIONS OF LAW PURSUANT TO BANKRUPTCY RULE 9033  
AND LOCAL RULE 9033-1**

David Leibowitz, trustee of the Estates of Compak Corporation and Communion Packaging Company, and Joseph A. Baldi, trustee of the estate of Jim Johnson (herein collectively the "Trustees"), as parties-in-interest in these proceedings, hereby join the Objections to the Proposed Finding of Fact and Conclusions of Law Pursuant to Bankruptcy Rule 9033 and Local Rule 9033-1, docket number 223, filed on July 7, 2008 by DuoTech Holdings, Inc., DuoTech Packaging LLC and Bruce Carlson.

**Dated: July 25, 2008**

Respectfully submitted,

DAVID P. LEIBOWITZ, not individually or personally, but solely in his capacity as Trustee of the Compak and Communion bankruptcy estates

By: /s/ David P. Leibowitz

David Leibowitz

Leibowitz Law Center

420 Clayton Street

Waukegan, IL 60085

*Counsel to Chapter 7 Trustee*

*David P. Leibowitz*

JOSEPH A. BALDI, not individually or personally, but solely in his capacity as Trustee of the Johnson bankruptcy estate

By: /s/ Joseph A. Baldi

Joseph A. Baldi (00100145)

JOSEPH A. BALDI & ASSOCIATES PC

19 South LaSalle Street

Suite 1500

Chicago, Illinois 60603

Telephone: (312) 726-8150

Facsimile: (312) 332-4629

*Counsel to Chapter 7 Trustee*

*Joseph A. Baldi*



**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS**

**In re:**

**COMPAK CORPORATON,**

**Debtor.**

**COMMUNION PACKAGING COMPANY,**

**Debtor.**

**THE COMPAK COMPANIES, LLC**

**Plaintiff.**

**Y.**

**JIMMIE L. JOHNSON, RON BOWEN, BRUCE  
CARLSON, PATPAK, INC., DUOTECH HOLDINGS,  
INC., DUOTECH PACKAGING , LLC, and OLMARC  
PACKAGING COMPANY.**

**Defendants.**

**Case No. 02 B 22594**  
**Chapter 7**  
**Honorable Bruce W. Black**

**Case No. 02 B 39188**  
**Chapter 7**  
**Honorable Bruce W. Black**

**(Jointly Administered)**  
**Chapter 7**

**Adv. Proc. No. 04 A 04028**

**THE COMPAK COMPANIES, LLC'S OBJECTIONS TO THE BANKRUPTCY COURT'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Plaintiff, The Compak Companies, LLC ("TCC"), by its attorneys, Shaw Gussis Fishman  
Glantz Wolfson & Towbin LLC, and pursuant to the Federal Rules of Bankruptcy Procedure  
9033(b), object as follows to the Proposed Findings of Fact and Conclusions Of Law:

### **Objections to Proposed Findings of Fact**

TCC has limited objections to the Bankruptcy Court's Proposed Findings of Fact ("Proposed Findings"). First, TCC objects, in part, to the Proposed Findings at ¶ 13 which states:

This latest [DuoTech License Agreement] was dated August 29, 2001, and purported to modify a similar license agreement *draft* circulated among the parties in July 2001.

(emphasis added). The word “draft” should be omitted. There is nothing in the record that would even remotely suggest that the July License Agreement was a “draft.” Indeed, even a cursory review of the instrument (which was attached as Exhibit 32 to TCC’s Appendix of Exhibits To Its Local Rule 7056(A)(2)(b) Statement of Additional Facts That Preclude the Entry of Summary Judgment (hereinafter, the “Appendix”)<sup>1</sup>, belies the faintest suggestion that it was a “draft.” To the contrary, it was signed by both parties under the recitation “IN WITNESS WHEREOF, this Agreement becomes a complete and binding Contract upon its acceptance as signified by the signatures below, whether made in person or by facsimile on this date of July 10, 2001.” This was, indeed, a finalized contract (not merely a draft).

The is further evidenced by contemporaneous admissions of DuoTech’s principle, Bruce Carlson, who shortly thereafter, on August 4, 2001, advised his colleagues of the need to “redo our contract with compak,” and explained further:

The original problem was that [DuoTech ] spent a lot of money and time ‘dummying-down’ our original license with [Compak], so it would sail right through. now that is coming back to haunt us since other companies need to see real legalese. let me be perfectly clear: *this is not a problem—it is a language issue.*

See Appendix Exhibit 33(emphasis added)(capitalization as in original). Similarly, on August 14, 2001, in a memo to a prospective investor in DuoTech who inquired into whether there was a deal in place with Compak, Carlson clarified that “we have always had a contract with compak” and boasted about DuoTech’s control over the royalty payments. See Appendix Exhibit 34 (capitalized as in original).

<sup>1</sup> Each of the Appendix Exhibits cited in these objections are submitted herewith.  
(6069 OBJ A0212451.DOC)

TCC believes that the Bankruptcy Court's use of the term "draft" in the Proposed Findings at ¶ 13 may have been merely an oversight, as the other Proposed Findings of Fact and Conclusions of Law otherwise uniformly reference multiple license agreements between the parties and expressly refer to a July License Agreement. *See* Proposed Findings at ¶¶ 12, 14 and 15 and Proposed Conclusions of Law (Count II) at ¶¶ 5, 6. Indeed, even DuoTech conceded, that the July License Agreement was a contract. *See* DuoTech Defendants' reply in support of motion for summary judgment at p. 10, in which they argue that the August 2001 Agreement replaced "all prior agreements." As such, the term "draft" should be stricken from the Court's findings.

Second, TCC objects to the Proposed Findings at ¶ 19 which states: "The Notice [of the Sale Motion] was not served on any of the DuoTech Defendants." It is undisputed, that the Notice was, in fact served upon Ron Bowen (at two separate addresses) and Dr. Kenneth Binkley. Both Bowen and Dr. Binkley were Members of DuoTech Holdings LLC and DuoTech Sales LLC. *Compare* Notice (Appendix 56) with chart of DuoTech "Ownership." (Appendix 57). Moreover, the Notice was sent to Glenn Johnson, who DuoTech described as a member (together with Bowen and Dr. Binkley) of its "Management Team." *Compare* Notice (Appendix 56) with DuoTech Company Profile (Appendix 59, at p. 25).

As such, to be accurate, the Court's findings should state as follows: "The Notice [of the Sale Motion] was not served directly on any of the DuoTech Defendants, although it was served on three of its Members and/or members of its management team."

TCC reserves its right to respond pursuant to Federal Rules of Bankruptcy Procedure 9033(b) to any objections to the Proposed Findings posited by the DuoTech Defendants or any other party.

**Objections to Proposed Conclusions of Law**

TCC has limited objections to the Bankruptcy Court's Proposed Conclusions of Law (the "Proposed Conclusions"). The Proposed Conclusions (Count I) at ¶ 3, state as follows:

The imposition of a constructive trust to transfer legal title to the plaintiff is needless because Compak, had, *and continues to have*, legal title to the patents.

(emphasis added). The phrase, "and continues to have," should be omitted. As the Bankruptcy Court correctly concluded, "[a]ll rights, title and interest in the '351, '388, and '312 patent vested in Compak by operation of law when the patents were issued." *See id. at* ¶ 2. Thereafter, Compak sold its assets to BMJ, which assigned those assets to TCC. *See Proposed Findings at* ¶ 4.

Plainly, any and all rights in the 351, '388, and '312 patents vested in Compak prior to its bankruptcy by operation of law were included in its sale of assets to BMJ. Indeed, at the outset of the auction process, Compak's counsel expressly acknowledged that the participants were bidding "for all of the assets of Compak Corporation," including its rights "to any intellectual assets." *See Appendix 60 at pp. 2, 4.* After BMJ was the successful bidder, the sweeping nature of the conveyance was memorialized in the Bankruptcy Court's March 25, 2003 Order approving the sale to BMJ of all of Compak's "Business Assets," defined exceedingly broadly to include "all of [the] business real and personal property" and merely excluding "bankruptcy causes of action, and related claims and cash." *See Appendix Exhibit 62.* Thus, to the extent that Compak was vested with actual property rights to the '351, '388, and '312 patents, those rights were plainly transferred to BMJ as part of the sale.

In the alternative, if Compak merely had the right to bring a cause of action against Jimmie Johnson and/or Patpak to compel the formal assignment of the '351, '388, and '312 patents to Compak, that right was also transferred to BMJ as part of the sale. Indeed, the March 26, 2003, Bill of Sale operates to sell, assign, transfer and set over to BMJ "all of the Seller's rights, title and interest in and to all of the personal property of the Seller, *tangible and intangible*, wherever located, including without limitation all of Seller's business as a going concern, goodwill, [and] *choses in action*..." See Appendix Exhibits 66 (emphasis added).

Once again, TCC believes that the Bankruptcy Court's use of the phrase "and continues to have," may have been merely an oversight, as the paragraph ultimately concludes that the imposition of a constructive trust is unnecessary to effectuate the transfer of the patents "*to the Plaintiff*" (TCC). As such, to be accurate, this Court should conclude "The imposition of a constructive trust to transfer legal title to the plaintiff is needless because Compak, had legal title to the patents, which it conveyed to BMJ and are now owned by TCC."

TCC reserves its right to respond pursuant to Federal Rules of Bankruptcy Procedure 9033(b) to any objections to the Proposed Conclusions posited by the DuoTech Defendants or any other party.

Respectfully submitted,

**COMPAK CORPORATON**

By: /s/ George J. Spathis  
One of its Attorneys

Dated: July 25, 2008

Robert M. Fishman (3124316)  
George J. Spathis (6204509)  
Shaw Gussis Fishman Glantz  
Wolfson & Towbin LLC  
321 North Clark Street, Suite 800  
Chicago, IL 60610  
Tel: (312) 541-0151  
{6069 OBJ A0212451.DOC}



**CERTIFICATE OF SERVICE**

George J. Spathis, an attorney, certifies that service of the above and foregoing pleading was accomplished through the Electronic Notice for Registrants on the attached CM/ECF service list, as well as upon the attached mail service list by first-class U.S. Mail, postage prepaid, on this 25<sup>th</sup> day of July, 2008. Copies of documents required to be served by Fed. R. Civ. P. 5(a), made applicable by Fed. R. Bankr. P. 7005, have been served.

**CM/ECF Service List**

The following is the list of attorneys who are currently on the list to receive e-mail notices for this case:

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Chicago, IL 60604

/s/ George J. Spathis



# **Appendix Ex. 32**

**Compak and Duo-Tech****Agreement****July 9, 2001**

THIS AGREEMENT is entered into between Compak Corporation ("Compak") and Duo-Tech ("Duo-Tech") and supersedes any previous Agreements between the parties.

**Section 1. DEFINITIONS**

Whenever the parties of this Agreement, Compak or Duo-Tech, are named in this Agreement, such a specification designates both parties as themselves, and/or their assigns or successors.

**Section 2. GRANTS OF RIGHTS**

For the value received of \$1,400, Compak gives non-exclusive rights to Duo-Tech to market, sell, manufacture, and distribute all products ("Stipulated Product") of the Process (the "Process" is collectively known as U.S. Patents 5,246,106; 5,456,351; 5,584,388; 5,746,312; and all derivative works of the patents). Compak is the sole assign of the Process by the inventor, Jimmie L. Johnson.

**Section 3. TERM OF GRANTS**

Said rights will endure until the end of each patent's term providing that the Minimum Royalty Fee (see Royalty Schedule) is paid to Compak, by Duo-Tech, for each calendar year. However, all Stipulated Product sold must be accounted for and paid for on a quarterly calendar basis. Failure to pay royalties that are due shall render this Agreement null and void.

**Section 4. ROYALTY SCHEDULE****Royalty Schedule**

Year	Communion Cup Royalty Rate*	Product "A" Royalty Rate*	Product "B" Royalty Rate*	Minimum Royalty Fee Due Annually**
2001	35% of Gross Profit***	\$0.000	\$0.000	\$0.00
2002	30% of Gross Profit***	\$0.030	\$0.050	\$500,000
2003	25% of Gross Profit***	\$0.025	\$0.040	\$750,000
2004	20% of Gross Profit***	\$0.020	\$0.030	\$1,000,000
2005-through end of patent life	15% of Gross Profit***	\$0.015	\$0.025	\$1,500,000

\* Royalty rate applies to each unit sold.

\*\* Annual payment must not be less than this amount regardless of units sold.

\*\*\* Gross Profit is the difference between the Cost of Manufacturing and the Net Sale Price.

➤ Product "A" Definition: Food-related products.

○ Food-Pak, Nutri-Pak, Outdoor-Pak, etc.

➤ Product "B" Definition: All other products.

○ Consumer-Pak, Dental-Pak, Oral Cosmetics, Pharmaceutical-Pak, etc.

➔ Any Exclusive Stipulated Product (see Section 7) will be allowed a 25% Royalty Reduction for its first three years of sales.

## Section 5. QUALIFICATION OF AGREEMENT

A qualification of this Agreement is that no Stipulated Product shall be sold by Duo-Tech to, or for, restricted countries or companies listed here:

- China
- Mexico\* (Only for sales of the Celebration/Remembrance Cup)
- Kellogg's\*
- Coca Cola (Only the entity of its joint business venture with P&G)\*
- Bayer\*
- Kraft/Nabisco/Phillip Morris\*

\*Restriction shall be removed if no definitive agreement/program is underway with Compak by 12/31/2001.

## Section 6. DESIGNATION AS MANUFACTURING AGENT

This Agreement designates Duo-Tech as a manufacturing agent of Compak for Communion Cups. Such a designation requires that Duo-Tech provide components and pay for manufacturing runs to fill credit-approved customer orders from Compak. Compak will provide the machinery for this manufacturing process. All customer charges (as stipulated by Compak) and the collection of such shall be done by Duo-Tech. Compak shall not stipulate customer charges less than the manufactured cost of such. Upon receipt of payment for such orders, Duo-Tech will pay to Compak the difference between the cost of the manufactured product and the collected charge to the customer. Duo-Tech will charge Compak an administration and inventory transaction fee for this service. Such a fee will not exceed ten percent of the cost of the manufactured product sold. Duo-Tech will have the right to manufacture its own product for sales, using Compak's machinery, but must give priority in the manufacturing schedule to Compak's orders.

## Section 7. EXCLUSIVE RIGHTS

It is agreed that Compak will provide exclusive protection to Duo-Tech for the marketing, selling, manufacturing, and distribution of Stipulated Product that has been solely developed by, or for, Duo-Tech. Such a protection must begin upon the immediate written request of Duo-Tech and shall not terminate until Duo-Tech gives written notification that said Stipulated Product no longer requires such protection. Said protection will consist of the refusal of Compak to allow any person or entity any licensing rights to use its Process to package a similar product to that of the protected product.

## Section 8. MISCELLANEOUS

- 8.1 Upon written approval from Compak, this Agreement may be assigned to other parties, either in part or in whole, by Duo-Tech.
- 8.2 If any provision of this Agreement is found or declared to be invalid or unenforceable by any court or other competent authority having jurisdiction, such finding or declaration shall not invalidate any other provision hereof and this Agreement shall thereafter continue in full force and effect.
- 8.3 This Agreement is being executed in the city of Chicago, Illinois, and shall be interpreted and constructed to be in accord with the laws of the State of Illinois, and there shall be the venue for all issues that may arise.

IN WITNESS WHEREOF, this Agreement becomes a complete and binding Contract upon its acceptance as signified by the signatures below, whether made in person or by facsimile, on this day of July 10, 2001.

  
Jimmie L. Johnson - Compak

  
Bruce Carlson - Duo-Tech

**Section 5. QUALIFICATION OF AGREEMENT**

A qualification of this Agreement is that no Stipulated Product shall be sold by Duo-Tech to, or for, restricted countries or companies listed here:

- China
- Mexico\* (Only for sales of the Celebration/Remembrance Cup)
- Kellogg's\*
- Coca Cola (Only the entity of its joint business venture with P&G)\*
- Bayer\*
- Kraft/Nabisco/Phillip Morris\*

\*Restriction shall be removed if no definitive agreement/program is underway with Compak by 12/31/2001.

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**Section 8. MISCELLANEOUS**

- 8.1 Upon written approval from Compak, this Agreement may be assigned to other parties either in part or in whole, by Duo-Tech.
- 8.2 If any provision of this Agreement is found or declared to be invalid or unenforceable by any court or other competent authority having jurisdiction, such finding or declaration shall not invalidate any other provision hereof, and this Agreement shall thereafter continue in full force and effect.
- 8.3 This Agreement is being executed in the city of Chicago, Illinois, and shall be interpreted and constructed to be in accord with the laws of the State of Illinois, and there shall be the venue for all issues that may arise.

IN WITNESS WHEREOF, this Agreement becomes a complete and binding Contract upon its acceptance as signified by the signatures below, whether made in person or by facsimile, on this day of July 9, 2001.

\_\_\_\_\_  
Jimmie L. Johnson - Compak

\_\_\_\_\_  
Bruce Carlson - Duo-Tech

# **Appendix Ex. 33**

**From:** Bruce Carlson  
**To:** Arnie Carlstrom;  
**CC:** Rick Alvarado; Rex Rasmussen; Ken Binkley; Joel Shapiro;  
Jim Blankshain; Glenn Johnson; Ed Greenberg; David  
Seitelman; den@moth.com;  
**Subject:** this week  
**Date:** Saturday, August 04, 2001 9:18:55 AM  
**Attachments:**

---

everything has progressed with oxyfresh. that completion is right around the corner, HOWEVER, they have had us working furiously about protecting their product after we get it and they have wanted us to redo our contract with compak since we are using a patented packaging and that is the company that will see what we're doing. (OKAY, that wasn't the best grammar but you get the point. my vacation ends tomorrow and i need a rest. try keeping up with all of my children in disney for two weeks and see if you're not tired.)

the original problem was that we spent a lot of money and time "dummying-down" our original license with them so that it would sail right through. now that is coming back to haunt us since other companies need to see real legalese. let me be perfectly clear: this is not a problem - it is a language issue. by tuesday or wed, i will present a new license to compak. if they don't accept it: we package our mouthwash differently. i have accenture looking into alternatives for us now. two of their clients have packaging in their arsenals that could do us well as they are (accenture has not approached anyone on our behalf: they're just checking their files for us).

we also have the cost of the product now (the mouthwash itself) and compak is going to have to lower its royalty to us or once again: we take an alternative. the bottom line is that if compak signs up with us, we should be able to rework the oxyfresh license by the end of this week: let's say by a week from this wednesday to know that we are completely finished. i'll take care of it: DON'T WORRY.

i hope david s's meeting is shaping up. my input would be that if everyone can;t make it: we go ahead with those that can. last i heard: there was a bid in for aug. 28.

ed is following up in south america with his person that he sent down there. NOT ONE SINGLE LEAD THAT COMPAK HAS GIVEN US HAS PANNED OUT so ed is doing it himself. kudos. i have worked out an approach with dr. mcelheny (from ed) who owns the largest company in the country that sells church hard goods (pews, altars, etc.). he is in sarasota and i spoke to him extensively this past week so that we could form a strategic partnership. it needs to be developed, but we're on our way.

we have a meeting monday morning (ed, dave s., and me) about aspirin-paks (?) brought from dr. ken. everything else can wait a few days 'til i'm alive again.

bruce

DUO00638



# **Appendix Ex. 34**

**From:** Bruce Carlson  
**To:** David L. Seitelman;  
**CC:**  
**Subject:** Re: this week  
**Date:** Tuesday, August 14, 2001 3:43:46 PM  
**Attachments:**

---

1. we pay a royalty of 35% of our profit on any product we stipulate as being exclusive and 25% on non-exclusive products. we figure the cost of the product under gaap so we control everything. it can't get any better than that.

2. we have always had a contract with compak. sorry, you were given 30 days and i wouldn't have a problem with other delays but i gave you some extra time on the compak signing. since you are taking legal advice, then this probably won't meet muster until we meet on the 28th and that is not acceptable. we are marketing 24-mouthwash regardless of how we package it so there is a company in place with two corporations already. i have a meeting with marchetti from olmarc tomorrow or the next day (his girl needs to get back to me) and all stock that has not been accounted for to date is on the table for him. should you not want to put any money in (which is fine) then you will get 1-2% without deposit (if you want it) because i want you as part of the team. that is the way things would stand now. i would have called you today anyway to discuss this but your email addressed it.

3. the only offices that will be available are those in the holding company. we have a structure in the llc's where officers and management are chosen a different way. as far as operationally, in the holding company, i don't care who the officers are but they will have to be those who can do this full-time (if the position calls for it) to keep tabs on the entire network. i remember that you can only give 5 hours per week and i don't see your role as being operational - but consultative.

thx, bruce

----- Original Message -----  
**From:** David L. Seitelman

DUO00643

**To:** Bruce Carlson

**Sent:** Tuesday, August 14, 2001 3:52 AM

**Subject:** RE: this week

Bruce:

Three things:

1. I reviewed the proposed Compak agreement. I think that it has the typical legal mumbo-jumbo. However, so I am not surprised as well as everyone else, what is the royalty rate?
2. My check did not make it into the mail after all. My lawyer suggested waiting until the Compak license was signed. Is this a problem for you?
3. In creating the corporate structure, I believe that some form of operating role is the best for me as this would leverage my background and strengths. Perhaps, COO with you as Chairman and CEO. In addition, I believe that we have the S&M piece well covered.

Talk with you soon. I am in the office if you need me.

David L. Seitelman

E-mail: [dseitel@megsinet.net](mailto:dseitel@megsinet.net)

Cell Telephone: 847-274-1534

Daytime Telephone: 847-634-6400 x253

# **Appendix Ex. 56**

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

EOD MAR 06 2003

IN RE: )  
Compak Corp. )  
DEBTOR ) CASE NO. 02-22594  
CHAPTER 11  
JUDGE BLACK

In re: )  
Communion Packaging Co. )  
DEBTOR. ) CASE NO. 02-39188  
CHAPTER 11  
JUDGE BLACK

NOTICE OF MOTION

TO: See attached Service List

Please take notice that on the 13th day of March, 2003 at 2:00 p.m., Michael J. Davis of the firm of Davis & Hands shall appear before the Honorable Judge Black, or any judge sitting in his stead, in Courtroom No. 615 in the United States Bankruptcy Court, for the Northern District of Illinois, Eastern Division, located at 219 South Dearborn, Chicago, Illinois, and present MOTION TO SELL BUSINESS REAL AND PERSONAL PROPERTY AND TO SHORTEN NOTICE PERIOD.

DAVIS & HANDS

By: M. J. Davis  
One of Debtor's attorneys

Michael Davis  
Davis & Hands  
1301 W. 22nd St., St. 603  
Oak Brook, Ill. 60521  
630-574-0123

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS

MAR 05 2003

KENNETH S. GARDNER, CLERK  
PS REP. - DR

PROOF OF SERVICE

The undersigned, being first duly sworn on oath, deposes and says that she served a copy of the foregoing Notice of Motion and attached Motion by mailing a copy of this document to the above named parties on February 28, 2003.

Sh. Hall 116

82/28/2003 14:13

3122360678

LOPEZ &amp; HARDING

PAGE 02/25

riel Weissberg, Esq.  
Weissberg and Associates, Ltd.  
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Chicago, IL 60605

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Chicago, IL 60611

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Charlotte, NC 28227-3152

ambassadors for Christ  
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Chicago, IL 60620-4233

American Express  
Suite 0002  
Chicago, IL 60679

American Freightways  
P.O. Box 910150  
Dallas, TX 75391-0105

American Speedy  
330 N. Harlem Ave.  
Arwood Heights, IL 60706

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Carol Stream, IL 60197-4520

Ameritech  
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Chicago, IL 60606

Anne Jentry-Croon, Esq.  
Law Offices of Anne Jentry-Croon  
71 N. Michigan, Ste. 1300  
Chicago, IL 60611

Annie Garrett  
ATTEMPTED NOT KNOWN  
IL

Architectural Impressions  
c/o Mr. Thomas Kreis  
1730 W. Algonquin Road  
Arlington Heights, IL 60005-3403

Arington Tool Inc.  
P.O. Box 130  
Ary, IL 60013

Ascher Brother Co., Inc.  
3033 W. Fletcher Street  
Chicago, IL 60618

AT&T Capital Leasing Services  
NOT DELIVERABLE AS ADDRESSED

AT&T Louisville  
P.O. Box 9001309  
Louisville, KY 40290-1309

AT&T Phoenix  
P.O. Box 78522  
Phoenix, AZ 85062-8522

AT&T Wireless Services-Chicago  
P.O. Box 5220  
Aurora, IL 60572-8220

Away Financial Services  
P.O. Box 93000  
Chicago, IL 60673-3000

Avery Paper & Office Products  
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30 Centre Pointe Dr.  
Virginia Beach, VA 23462

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c/o Russell C. Green  
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Baker & McKenzie  
One Prudential Plaza  
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Bank of America  
231 South LaSalle Street  
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# **Appendix Ex. 57**

**Holding Company Ownership**

Allen Alvarado	2%
Rick Alvarado	3%
Wendy Alvarado	3%
Ken Binkley	10%
Jim Blankshain	1%
Ron Bowen	5%
Bruce Carlson	25%
*Held by Bruce	8% (in my name – to be kept or sold to other parties entering)
Shaun, Julie, Mandy, Melissa Carlson	2%
George & Celia Carlson	1%
Arnie Carlstrom	8%
Rexene Carlstrom	8%
Andrew J. Cohen	5%
Michel Halbaut	possibly 1% when he comes from Minnesota (from Bruce)
Gene & Lisa Haring	1%
Mike & Norma Jeanne Oester	5%
Rex Rasmussen	8%
David Seitelman	5%
*Accountant	possibly 2% (from Bruce)

**The LLC (based on the above stockholders) should be set up like this:**

The Holding Company owns	40%
Rick & Wendy Alvarado	1% – All Web needs (sites, sales, marketing)
Ken Binkley	5% – Brought idea, worked formula
Ron Bowen	1.5% – President
Bruce Carlson	6%
Rexene Carlstrom	3% – Mgr of LLC
Andrew J. Cohen	1%
Mike & Norma Jeanne Oester	1.5% – Formula Development & QC
David Seitelman	1% – Delivered Oxyfresh
For Sale	40%

My thoughts are somewhere between \$1250-2500 per 1% until the end of April for HC (a purchase: not a loan). Cost to be voted on. We limit purchase of shares per individual to some percentage. No sales after that unless an outsider is needed. A separate LLC could be set up for the Tablet Product. One is definitely needed for International Sales.

from the desk of bruce carlson

# **Appendix Ex. 59**



**Duo-Tech**  
August, 2001

**Bruce Carlson**

888.371.8500

**Loftus & O'Meara**  
Customer Focused Solutions Staffing  
(312) 944-2102

*Bruce's home #*

*847-549-6501*  
x v

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## 1.0 Executive Summary

Duo-Tech is a start-up company that has opportunities that abound just as the world population grows. Not only does every person become a market target for our products, but they may very well have the desire, or the need, to use our products on a regular basis. Not just one segment of the population, but every segment may be touched by our products. The word "unlimited" does not fully quantify the needs we may fill. Money is not a barrier to our potential. If one segment of the world population does not have the money to buy our products . . . others will buy our products for them. "Unique" is our opportunity, "unlimited" begins the process by which we may succeed, and "profit" is a foregone conclusion.

Duo-Tech has the opportunity to become a manufacturing and distribution designate of Compak Corporation, which through a unique and patented packaging technology has developed multiple product offerings possessing explosive growth potential. These products are designed around easy-to-use, patented, two compartment packages which may be filled with both a liquid and a solid under separate seals. Due to the inherent proprietary design and manufacturing characteristics of the package, it boasts multiple advantages over traditional packaging methodologies. The initial news of their packaging concepts has brought interest from around the world.

Duo-Tech has the same limits imposed on its growth that Compak did: its own ability to properly build upon its capabilities. Compak Corporation came out with its first product in 1993 and, unfortunately, has been unable to capitalize on the overwhelming demand for its unique products because of its exhaustive R&D, financial needs, and manufacturing start-up. But what has been critical for Compak -- to set up its potential for unlimited success -- also allows Duo-Tech to enter into this relationship with immediate opportunities to take advantage of Compak's unrelenting drive to help people from all walks of life. During its last five years, Compak has readied products in the nutrition, medical, spiritual, and cosmetic fields. Each product fills desired and, in many cases, life-assisted needs which will become standards of importance in the world. In order for Compak to fill the needs of all who have come forth requesting opportunities to buy products from them, Compak has found it necessary to carve out various marketplaces for others to take over these sales.

The most significant area of growth and sales opportunities that Duo-Tech will have will be its Internet presence. As effective that Compak was in its worldwide exposure, it did so without the use of modern communication tools. Duo-Tech will be working through its own staff with its strategic partners, who are rooted so deeply in the packaging industries, that our reach is already significantly greater than traditional packaging manufacturers. Duo-Tech will be built around the technology of its communication expertise to handle the needs of design, development, sales efforts, distribution, and customer support over its web areas. Opportunities will also soon be recognized through the founder of Compak as he and our company co-develop a world relief web organization.

Compak's Mission Statement asserts that they exist "to package quality products that enhance life for people." We, at Duo-Tech, have those same desires, and our expert strategic partners will join us in making sure that we deliver the dream of Compak to the excited, waiting world.

### **1.1 Objectives**

1. Procure manufacturing and distribution rights for patented processes from Compak Corporation and others.
2. Establish alliances for manufacturing and distribution to fulfill production needs.
3. Develop a world class Internet presence for information, marketing, and e-commerce.
4. Investigate Strategic Relationships that will be able to R&D new product ideas for our processes.

### **1.2 Mission**

Every human has nutrition and medical needs and most choose spiritual and cosmetic needs. The packaging processes that we have rights to allow us to provide for all of those needs with new and affordable products. Although, we control the manufacturing and distribution of these products, we are not in the business of providing hard goods. We are in the business of providing for human prosperity and life itself. We seek a fair and responsible profit to reward ourselves, but more importantly: enough profit to keep our company healthy to answer the needs of all people that are touched by the changes that our products make in their lives.

### **1.3 Keys to Success**

The technical and marketing partners that we have assembled as our team is experienced in years and successes so that we may organize, develop, and implement our plans to reach our near-unlimited marketplaces with our proprietary products.

1. Proceed with only one opportunity at a time to make sure our full attention and efforts allow for its success.
2. Work through each strategic partner to make sure each product is brought to the marketplace with the highest standards possible.
3. Be aware of the fact that we offer unique solutions to many life situations so it is our responsibility to investigate options that are brought to us to help others.
4. Continue to believe in the philosophy that if we are doing good for people, it is imperative to make the profit necessary to keep doing so or we not only hurt ourselves, but all who count on us.

## 2.0 Company Summary

Duo-Tech is a company that is being formed because of the inability of another to capitalize on all of the opportunities it had available to it. Compak Corporation holds unique patented packaging technology and has developed multiple products around this technology. Since Compak has concentrated most of its efforts in China (where the population exceeds one billion persons), it has been unable to grow fast enough to handle the requests for its technology and products from the rest of the world. Our Chief Operating Officer and Manager is a major investor in Compak and has realized the need (and opportunity) to provide Compak technology to those who want it. Duo-Tech is being formed to do just that.

## 2.1 Company Ownership

Duo-Tech is an entity that is yet unformed. Its principals are investigating various legal options and discussing potential principal partners that will aid in making the final decisions in this matter.

## 2.2 Start-up Summary

Our initial financial needs are displayed in the accompanying table and chart. Each of the line items for these assumptions are explained below.

**Legal & Accounting** - Outside firms will handle these tasks and prepare contracts for our relationship with Compak, for our sales and distributor relationships, and our personnel obligations. Our internal accounting structure will also be setup to comply with our reporting requirements to Compak.

**Stationery, Office Supplies, etc.** - Normal initial needs.

**Marketing Materials** - Normal initial literature needs.

**Website Development** - Information, broadcasting, e-commerce, contact, and a world communication site (design, publishing, hosting, and support with unlimited updating).

**Insurance** - Standard office and contract policy.

**Rent** - Home office security and rent prepayment.

**Office Computers & Equipment** - Desktops, printers, scanner, copier, fax machine, and phones.

**Other** - Miscellaneous office expenses and initial utility setups.

**Cash Requirements** - This fund will be used for travel, necessary supplies to manufacture small runs of product, and costs associated with making sample products.

**Start-up inventory** - This inventory will be used for marketing and sales needs.

**Long-term Assets** - Purchase of used, low capacity Form, Fill, & Seal machine to make sample products and manufacture small runs of sold products.

**Investor** - An individual to take a debt and equity position to cover first two years of expenses. Although it is not anticipated that our needs will come anywhere close to this

investor's cash input: it would allow our company to concentrate on running its business instead of looking for ways to finance its start-up.

**Long-term Liabilities** - Loan to buy used Form, Fill, & Seal machine.

### Start-up

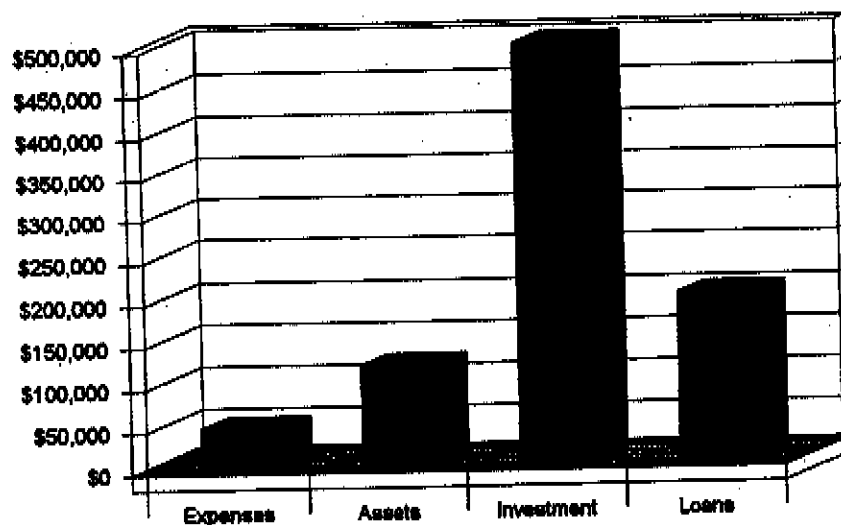


Table 2.2: Start-up

<b>Start-up Plan</b>	
<b>Start-up Expenses</b>	
Legal & Accounting	\$15,000
Stationery, Office Supplies, etc.	\$1,000
Marketing Materials	\$1,500
Website Development	\$15,000
Insurance	\$2,500
Rent	\$1,500
Office Computers & Equipment	\$10,000
Other	\$1,000
<b>Total Start-up Expense</b>	<b>\$47,500</b>
<b>Start-up Assets Needed</b>	
Cash Requirements	\$15,000
Start-up Inventory	\$5,000
Other Short-term Assets	\$0
<b>Total Short-term Assets</b>	<b>\$20,000</b>
<b>Long-term Assets</b>	<b>\$100,000</b>
<b>Total Assets</b>	<b>\$120,000</b>
<b>Total Start-up Requirements:</b>	<b>\$167,500</b>
<b>Left to finance:</b>	<b>\$0</b>
<b>Start-up Funding Plan</b>	
<b>Investment</b>	
Investor	\$500,000
Other	\$0
<b>Total investment</b>	<b>\$500,000</b>
<b>Short-term Liabilities</b>	
Unpaid Expenses	\$0
Short-term Loans	\$100,000
Interest-free Short-term Loans	\$0
<b>Subtotal Short-term Liabilities</b>	<b>\$100,000</b>
<b>Long-term Liabilities</b>	<b>\$100,000</b>
<b>Total Liabilities</b>	<b>\$200,000</b>
<b>Loss at Start-up</b>	<b>(\$580,000)</b>
<b>Total Capital</b>	<b>(\$80,000)</b>
<b>Total Capital and Liabilities</b>	<b>\$120,000</b>
<b>Checkline</b>	<b>\$0</b>

### 2.3 Company Locations and Facilities

The nature of our company allows us to maintain a single office location for organization purposes. Such an office will be small to concentrate project efforts. The need to meet with others for planning and presentation purposes will also be addressed. Currently office space is being considered in Bloomingdale, IL, which is in the Chicago area, and such office needs will be filled to maintain a close proximity to our strategic partners.

All of our strategic partners have facilities that are available to us for detailed needs which will encompass the marketing, manufacturing, and distribution of each product we sell. The facilities available to us at this time through these partners are located in the Chicago suburbs of Bensenville, Buffalo Grove, and Northlake, and are all in close proximity to each other.



### 3.0 Products

Compak Corporation has focused on marrying its core packaging competence with unique functionality, directing it towards new and unexplored competitive space. Initial results from this continuing effort include the following: (1) a revolutionary new product for the safe and efficient religious sacrament of Communion (Celebration Cup), (2) a nutritional supplement (biscuit and drink) tailored to specific environmental conditions (Nutri-Pak), and (3) a revolutionary dental hygiene product (Dental-Pak). Significant market analyses and acquisition of key industry relationships and contracts have allowed Duo-Tech to attend to the world desire for these products while Compak concentrates its efforts in China. Our own research has allowed us to begin developing an opportunity with a firm holding the patent for an FDA approved 12-Hour Mouthwash.

Since our strategic partners are already well entrenched in their marketplaces (medical, food, and retail distribution), we have the ability to solidify our foothold in new markets of entry and immediately create competitive barriers. Our strategic partners, along with our new and exciting products, will allow us to gain access to what may be perceived as closed markets and/or establish strong foundations in newly entered markets.

### 3.1 Product Description

#### (1) Celebration Cup

Through an application of our unique double-lid packaging technology, the issues of both contamination and convenience are effectively addressed. This product has reduced concerns of infection control by combining the juice/wine and host under separate seals in one package. An alternative for Roman Catholics is to package this with Holy Water instead of wine to address certain Church rules. The hygienic manufacturing and packaging process utilized minimizes the risk of contamination and the pre-packaged, extended-life nature of the product provides for maximum convenience. The Celebration Cup is cost-effective, convenient, portable and ideal for use in virtually any environment.

#### (2) 12-Hour Mouthwash

Because of the nature of this product, it can only be effective if used within minutes after it is mixed. Although the packaging necessary to distribute this product can vary (and are certainly not a deterrent to someone wanting to receive the benefits of using it), some mixing of materials will be necessary. This can be burdensome or maybe even impossible at times. Our packaging allows us to crystallize one of the reactive agents into a tablet and then store it in our top compartment, allowing the second agent to stay in liquid form in the bottom compartment. Our patented pressure sensitive mixing seal would allow the user to then press the tablet top so it falls into, and mixes with the liquid reactive within seconds. One would then just have to peel the top seal off and drink the mixture. Convenience is enhanced and waste is negligible from this marriage of technology.

#### (3) Dental-Pak

Utilizing the Company's patented packaging technology, Dental-Pak combines gum disease fighting agents and cavity fighting supplements in a single package. In a convenient, easy to

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**Duo-Tech**

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use, easy to inventory and easy to distribute mouth rinse product, a safe 0.05% fluoride mouth rinse to fight cavities is sealed in a container under the first lid, on top of which sits a gum disease fighting tablet under the second lid. The tablet or mint under the second lid is made with Super Oxide Dismutase (S.O.D). S.O.D. has been shown in international studies to fight off the free radicals that are associated with inflammation in Periodontal Disease.

**(4) Nutri-Pak**

Nutri-Pak is a nutritional supplement manufactured using the our proprietary double-lid system. That technology has resulted in this revolutionary product consisting of a nutritionally fortified soy biscuit and soy drink, cost-effectively packaged under separate seals in one unit. The biscuit and soy drink are fortified with high protein and micro-nutrient levels and packaged aseptically, thereby creating a pure product possessing an extended, non-refrigerated shelf life. Additionally, since different customers will exhibit different nutritional needs, we can nutritionally customize the Nutri-Pak. We will vary the levels of protein, vitamin A, iron, iodine, additional micro-nutrients, and taste to develop a formula specifically tailored to the needs of individual customer groups.

**3.2 Competitive Comparison****Celebration Cup**

This product significantly reduces the time involved in Communion preparation and offers a reduction in the waste that is generated through conventional Communion practices. Furthermore, any concern about germs from handling during the preparation has been removed because the Communion is sealed until it is opened by the recipient.

**12-Hour Mouthwash**

Virtually every human suffers from bad breath. Approximately 90% of bad breath is caused by a certain type of bacteria that naturally occurs in the mouth (not in the stomach as believed by many). Although there are numerous washes on sale throughout the world that address this issue, they work for only twenty to thirty minutes. Our patented product can eliminate this problem for a period of twelve hours -- tested, proven, FDA approved, and guaranteed.

**Dental-Pak**

Marketing and distribution channels for Dental-Pak include school systems in developing countries as well as retail markets. The product's portability, appeal to children as well as adults, ease of use and convenience produce advantageous selling points for it. The Dental-Pak differentiates itself through the use of the double lid technology which creates a product unlike any other on the market.

**Nutri-Pak**

Relative to other nutritional supplements, this product will deliver a superior nutritional supplement possessing many characteristics far superior to other current product offerings. The goal was to create a nutrition snack possessing both a liquid and a solid, with an extended shelf life, capable of being tailored to the exact nutritional requirements of a given target market. There is no product available that comes packaged as such.

**Consumer-Pak (from 3.6. Future Products)**

Capitalizing on the convenience and portability of the our proprietary packaging technology, we have identified significant opportunity in the over-the-counter medication market. The Consumer-Pak will make it possible for medication to be taken where drinking water is unavailable or inconvenient. For the vacationer or business traveler, problems associated with the availability or, more importantly safety, of drinking water are eliminated by this product. Additionally, the convenience of simply combining pure water with medication eliminates a great deal of the difficulty in administering medicine.

**Pharmaceutical-Pak (from 3.6. Future Products)**

Unlike current methods of injection-ready drug storage, our injection system allows the medical community to administer injections without the added risk of exposure to airborne bacteria and other contaminants. It also avoids the danger of the health professional being cut while breaking the ampules used for current injections. Additionally, the Pharmaceutical-Pak is extremely portable and easy to store.

**Food-Pak (from 3.6. Future Products)**

Besides allowing for current foodstuffs to be showcased in a completely new way (e.g., fresh fruit packaged above a yogurt), there are many items that have yet to be developed because this packaging has yet to be revealed. We have interest with three new foodstuffs and beverages: (1) a drink mix that allows for it to be blended with the water in the bottom, (2) a line of soups that have add-ins above (crackers, matzoballs, etc.), and (3) mixed drinks for airline service. Our packaging allows for an excitement and cost-saving in food preparation, impulse sales, and convenience.

### 3.3 Sales Literature

We will begin to work on a line of brochures and sales materials to assist in our marketing. Our strategic partner, X-ugiss, will publish an extensive website with product descriptions and graphics, as well as, press, manufacturing, and mission statement videos. Celebration Cup literature (which has already been prepared by Compak) is attached as an appendix.

### 3.4 Sourcing

We do not need to look outside of our strategic partners for anything to start manufacturing and selling. These partners come from the fields of food contract manufacturing, medical contract manufacturing, packaged goods sales, national and international distribution, exporting, marketing, and web development. The alliances we build through them utilize each of the areas we need to become successful, without qualification. Each of our partners have a vested interest in the profit of their area of responsibility and therefore guard against any wastes of hard costs or time.

Although, on rare occasions, we may need to obtain an item for production from outside of

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Duo-Tech

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our geographical area, those times will be infrequent and costs for such will be controlled. Since our products are manufactured in such high numbers, we are fortunate to be able to buy in quantities that allow us maximum savings.

Listed here are our initial product offerings and who will be responsible for manufacturing them.

\* **Christians (Celebration Cup)** - Compak is manufacturing and selling this product in the U.S. to controlled markets. We can use their same production facilities to add to this market and approach Compak contacts in Central and South America that they have not had the ability to follow up on. Should we need to begin our own manufacturing, we can utilize our partner, Olmarc, and use all of the technology of Compak.

**Nutritionally Deprived (Nutri-Pak)** - Compak will be manufacturing and selling this product in China to their school children. They will export to our needs until we are ready to begin manufacturing through our partner, Olmarc. Compak will provide us with the technology to begin that manufacturing.

**U.S. Outdoor (Nutri-Pak)** - Compak will be manufacturing and selling this product in China to their school children. They will export to our needs until we are ready to begin manufacturing through our partner, Olmarc. Compak will provide us with the technology to begin that manufacturing.

**Dental Needy (Dental-Pak)** - Compak will be manufacturing and selling this product in China to their school children. They will export to our needs until we are ready to begin manufacturing ourselves. Since this is more of a medical than food product, we have the option of manufacturing through our partner, Virotek. However, we may be able to use the same Pak size as the Celebration Cup and would therefore use the production capabilities of our partner, Olmarc. Compak will provide us with the technology to begin that manufacturing.

**Oral Cosmetics (12-Hr Mouthwash)** - The top-sealing unit of the machine making this product will need to be retooled from the Dental-Pak. Providing for the initial amounts of this product, we will be able to use our development machine (capacity is approximately 12 M Paks a year) or buy a used machine with our partner Virotek on which we could quintuple production. This machine could then be used to manufacture other products from our medical groupings. We may also have the opportunity to use a third party, who is buying products, to pay for the larger machine. If that were the case, we would still use Virotek for medical production. We would be responsible for the final sealing technology.

**Convenience Med (Consumer Pak)** - None of the current machinery use on other products has been tooled to make prototypes of this product yet. This product has yet to be sold and its final technology and machinery will be developed with funds from the purchasing party in a joint venture or through financing from purchase orders. Our partner, Virotek, will be used for the manufacturing process.

**Antibiotics (Pharmaceutical Pak)** - None of the current machinery use on other products has been tooled to make prototypes of this product yet. This product has yet to be sold and its

final technology and machinery will be developed with funds from the purchasing party in a joint venture or through financing from purchase orders. Our partner, Virotek, will be used for the manufacturing process.

**Showcase Foods (Food-Pak)** - These products have not been chosen yet so it has not been decided yet if any of the technology is available without retooling. The Nutri-Pak technology may be the used without change. In any case, any costs associated with these products will come from a joint venture or through financing from purchase orders. Our partner, Olmarc, will be used for the manufacturing process.

### 3.5 Technology

We have acquired the rights to manufacture safe, easy-to-use, patented, two compartment packages which may be filled with both a liquid and a solid under separate seals. Due to the inherent proprietary design and manufacturing characteristics of the package, it boasts multiple advantages over traditional packaging design methodologies. Where, traditionally, two separate packages (consisting individually of a solid and a liquid) may have been required to bring these two types of products together, we have eliminated that dilemma. This patented design allows single serving quantities of both a solid and a liquid to be sealed together in the same package. Compak Corporation had successfully developed its first patent for the use of its package for a Communion product in September of 1993. The exclusive use of three additional patents to date, protecting the package design against any unspecified use applicable to any size, have been acquired. Additionally, Compak has secured international patents. Significant advantages inherent in the this packaging technology include:

**Cost Advantage** - Due to the proprietary nature of the one piece, dual lid system, the packing process is completed in one step by a single piece of packaging machinery resulting in reduced labor and machine costs relative to competitors who are forced to utilize a two step (or even a two company) process. This process also consumes less packaging materials than the two step, two package approach -- further increasing the cost advantage.

**Extended Shelf Life** - To insure maximum sanitation, products are packaged in either a hygienic and/or aseptic environment (sealed against the escape or entry of air or contaminants) using a form, fill, and seal machine resulting in an extended, non-refrigerated shelf life.

**Convenience** - The unique dual lid system allows a solid and a liquid to be conveniently packaged together. The need for two separate containers is eliminated.

**Reduced Waste & Disposal** - The unitary package approach creates less waste to be disposed of versus the two package approach.

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**Duo-Tech**

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**3.6 Future Products****Consumer-Pak**

Utilizing the double-lid system, pure water under the first seal will be combined with various medications (i.e., pain relievers, antacids, etc.) under the second. The Consumer-Pak will make it possible for medication to be taken where drinking water is unavailable or inconvenient. For the vacationer or business traveler, problems associated with the availability or, more importantly, safety of drinking water, are eliminated by this product. Additionally, the convenience of simply combining pure water with medication eliminates a great deal of the difficulty in administering medicine. This product will be released with partners that already have components that will fit the profile we need to manufacture and distribute for maximum success potential.

**Pharmaceutical-Pak**

The instability of antibiotic solutions such as penicillin and tetracycline require freeze-dried drugs which must be packed separately with a liquid solvent. The current method of packaging is an ampule (glass vial) which contains the liquid and a small bottle containing the powder. This makes the process of giving injections very complex. First, a health professional must score the neck of the ampule and clean it with a sterilizing agent such as a 70 percent alcohol solution. They must then break the ampule and again clean the newly exposed edge. The solution can then be drawn into the syringe. The health professional must then clean the metal top of the small bottle containing the freeze dried medicine. The liquid is injected into this small bottle and shaken to complete the mixture. Then the medication is finally drawn into the syringe. The "Pharmaceutical-Pak" is a proprietary development that allows the user, by simply pressing the package lid, to combine freeze-dried drugs with a liquid based solvent. The drug, upon entering the water, activates and quickly dissolves. A syringe may then be inserted into the cup in order to extract the mixture.

**Food-Pak**

Allowing our strategic partners to approach the major food manufacturers, there have already been a number of ideas and requests for more information. Some of the ideas that have been presented are in mixed liquid items, cross-promotional solid food products, and joint industry products (e.g., toy and drink). A special team of members from major food corporations has been put together to brainstorm ideas for products, and explore marketing and manufacturing aspects of bringing these new products to the marketplace. This team is under development and confidentiality agreements with Duo-Tech and have a vested interest in its success. Any arrangements for manufacturing of such ideas would come from manufacturing financed operations.



#### \* 4.0 Market Analysis Summary

As a whole, our company is reflected as a marketer of packaged goods for the good of human use. There are many ways that we can market each of our products. Even though our products are unique and proprietary, that does not mean that they will be readily accepted. In some cases, we will have to present each of them to a new market: a market that does not understand the product itself -- or the benefit of such. However, our strategic partners are so well entrenched in the fields that we are entering, we are well ahead of the sales cycle to make each of our products a successful commodity.

Since we are providing the overall organization and management of our company to interface all of our partners and bring an identity for our technology to the world, we have planned for our partners to use their experience to market their particular products under our guidelines. Thus, our sales will reflect the expertise, less the financial outlay, to maximize potential. Our contracts with our partners will reflect their need to reach certain sales milestones and to bear the burden for such. Their profit structure is predicated on their success. Our profit structure is predicated on us keeping our needs in focus and conveying that focus to each of them.

#### 4.1 Market Segmentation

Our initial market research and projections are displayed in the accompanying table and chart. Each of the line items for these assumptions are explained below.

\* **Christians (Celebration Cup)** - Although there are literally billions of religious members who could respectfully use our product, these numbers reflect the current protestant members in the U.S. [87 M], and the potential orders in Central and South America [60 M and 90 M] that are being pursued. These numbers reflect members only: not multiple usage of the product during the year. Growth is from the normal increase in Christians over the past eight years.

**Nutritionally Deprived (Nutri-Pak)** - The initial sales of the Nutri-Pak (by Compak) are being sold to the school children of China through a contract with the Shanghai Education Board for the delivery of thirty million Nutri-Paks per year and has received letters of intent with four additional education districts to finalize twenty year contracts to provide Nutri-Pak on an exclusive "in-school" basis. Together, these four school districts comprise over twenty million children, yet represent only ten percent of the Chinese school market. In these school districts, Nutri-Pak will be the only product made available by the school to the students at break time. Besides having the option to create similar relationships with other countries, Duo-Tech will initially focus on various relief organizations [11.2 M children, age five and under die each year from hunger related diseases]. This number reflects children's death only: not daily, life-sustaining usage. Figures come from the Feeding Children International and the World Emergency Relief organizations.

\* **U.S. Outdoor (Nutri-Pak)** - Through a different nutrient formula (already developed) than

the children's Nutri-Pak (above), the U.S. campers market [42 M] would be our first entry for a U.S. consumer product. This number reflects campers only: not multiple purchases for camping trips. Figures come from the Sporting Goods Manufacturers Association.

\* **Dental Needy (Dental-Pak)** - In a similar co-venture as listed in the Nutritionally Deprived section above, Compak will provide school children with Dental-Paks to be distributed through the same network being utilized for the Nutri-Pak product. Duo-Tech will market a specific formula for the elderly in this country who are in hospitals, nursing homes, and those who are self-sufficient. These persons may find it necessary to use a mix of our Dental-Pak to prevent gum disease thus preventing the loss of their teeth. This number reflects the elderly over the age of seventy-five [15 M]. This number reflects the elderly population only: not daily usage. Figures come from the U.S. Census Bureau.

A **Oral Cosmetics (12-Hr Mouthwash)** - One of the most cosmetically exciting products needing our technology (because of the half-life of the reactive agents) is this product that we will aim at the U.S. market for adults aged 25-45 [80 M]. This product will be sold through an international pharmaceutical company and also private labeled. This number reflects age demographics only: not daily or bi-daily usage. Figures come from the U.S. Census Bureau.

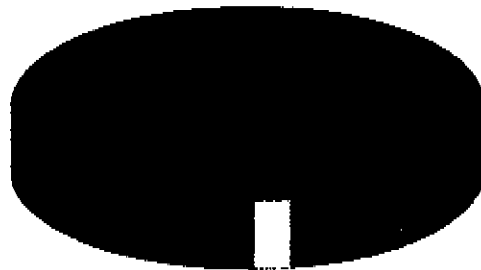
**Convenience Med (Consumer Pak)** - The international traveller from the U.S. [137 M] may desire to travel with self-contained remedies. Our double-lid system, allowing pure water under the first seal to be combined with various medications (i.e., pain relievers, antacids, etc.) under the second, give this traveller the most convenient method to protect themselves. Number of passengers do not account for their desire to pack more than one medication or multiples of a single medication. Figures come from the U.S. Department of Transportation.

**Antibiotics (Pharmaceutical Pak)** - Annual sub-Saharan deaths in Africa [29.7 M] can oftentimes be denied with antibiotics. Unlike current methods of injectionable drug storage, our injection system allows the medical community to administer injections without the added risk of exposure to airborne bacteria and other contaminants. It also avoids the danger of the health professionals being cut while breaking glass ampules that are currently used. This number reflects the dying population only: not multiple necessary usages. Figures come from the U.S. Department of Commerce.

**Showcase Foods (Food-Pak)** - Although this marketplace has not been explored by Compak yet, that is only because they did not have a strategic partner to do so. Duo-Tech's partners are well entrenched in the U.S. food industry and are exploring many ideas for co-developed products. Demographics may allow us to enter this market in the age group of 5-19 [61 M] so as to eliminate the need for cost constraints. This number represents U.S. population in that age group only: not purchases of the many products can be sold to this demographic. Figures come from the U.S. Census Bureau.



### Market Analysis (Pie)



- Christians (Celebration Cup)
- Nutritionally Deprived (Nutri-Pak)
- U.S. Outdoor (Nutri-Pak)
- Dental Needy (Dental-Pak)
- Oral Cosmetics (12-Hr Mouthwash)
- Convenience Med (Consumer Pak)
- Antibiotics (Pharmaceutical Pak)
- Showcase Foods (Food-Pak)

Table 4.1: Market Analysis

Market Analysis							
Potential Customers	Growth	2001	2002	2003	2004	2005	CAGR
Christians (Celebration Cup)	6%	237,000,000	251,657,000	267,802,653	284,674,220	302,608,696	6.30%
Nutritionally Deprived (Nutri-Pak)	0%	11,200,000	11,200,000	11,200,000	11,334,938	11,380,278	0.40%
U.S. Outdoor (Nutri-Pak)	4%	42,000,000	43,677,000	44,991,450	46,566,151	48,195,966	3.50%
Dental Needy (Dental-Pak)	3%	15,000,000	15,450,000	15,913,500	16,390,905	16,882,632	3.00%
Oral Cosmetics (12-Hr Mouthwash)	2%	80,000,000	81,200,000	82,418,000	83,654,270	84,909,084	1.50%
Convenience Med (Consumer Pak)	7%	137,000,000	146,453,000	156,558,257	167,360,777	178,908,671	6.90%
Antibiotics (Pharmaceutical Pak)	10%	29,700,000	32,670,000	35,937,000	39,530,700	43,483,770	10.00%
Showcase Foods (Food-Pak)	2%	61,000,000	62,442,000	63,963,136	65,498,251	67,070,209	2.40%
Total	5.30%	612,900,000	644,882,000	678,873,775	715,010,212	753,439,306	5.30%

## 4.2 Target Market Segment Strategy

Except for the Celebration Cup, we will need to present each of our products to their marketplaces as new ideas. This would be a daunting task for any company regardless of the excitement generated pre-release. Fortunately, our company does not have to deal with that complication. Not only is the research and development of our initial products complete, but our strategic partners know each of their marketplaces and have numerous products already deeply entrenched in them. It is through these partnerships that we have identified specific entry points.

Each of our products address societal needs in the areas of usefulness and cost. The growth of each marketplace is healthy and because of our unique product lines, we anticipate the trend to use them will rise as society learns more about them.

### 4.3 Industry Analysis

In the packaging industry, innovation is not an option. When leading companies and brands fail to innovate, someone else steps in to do it for them. But when companies do innovate, they can successfully strengthen brand values among existing customers and extend them to new ones. Because of the R&D that Compak has already done, our strategic partners will be able to go to their clients to give them something new for their product categories. We can help them increase sales and profits and reach new consumers because a new package design will give them an incremental advantage over their competitors.

We will never have an uninterested client because breakthrough technology generally takes longer, costs more and brings higher risks -- and there's no guarantee of marketplace success. Unlike incremental improvements, at the beginning of the project, there's often no road map to the final destination. Once again, our strategic partners walk into open doors with technology that brings things that opens the marketing imagination.

As if these issues were not challenging enough, successful new technology also requires a near-perfect sense of timing, of being an idea whose time has come. It takes a strong shared commitment by players across the package value spectrum, often led, or driven, by a visionary company. Compak has been that company and has given us an unprecedented role in its success to be able to sell, and sell more, for our own success.

Besides our packaging opportunities in the industry, we also have our own line of products that are paramount in troubled financial times and places because of their shelf life, raw material savings, and shipping features. Not only do specialty items always capture the essence of the marketed public, but our line of health and medical products that are able to be produced because of the mixing capability of our process, allow us to extend our ideas into new marketplaces. We will be flexible enough to examine all opportunities brought to us to strengthen the packaging industry with new products, and do so using the same machinery that is readily available for other packaging processes.

## **5.0 Strategy and Implementation Summary**

Duo-Tech is focused on exploiting our proprietary packaging technology through market expansion for current products and identification of new product applications. Through each of our strategic partners, existing and developmental products bring to bear significant advantages over existing products. Whether a new market is being created or competition may or may not exist, our management team and our partners will perform extensive analyses toward precisely documenting the logic supporting a product's potential for success. However, underlying all of our efforts is an overwhelming desire to better the human condition and create value for our customers.

### **5.1 Strategy Pyramids**

Since Compak was unable to finish its cycle from inception to sales, we have been allowed an easy learning curve. Instead of trying to handle all of the sales ourselves, we have strategically chosen partners that allow the deepest -- yet widest -- penetration into the product placement areas that we seek.

Duo-Tech will act as the organizational body for our sales efforts with our first level of market integration being our strategic partners. Each of these partners are well entrenched in their fields.

Each of our strategic partners then will work with their clients, the largest and most respected companies in medical product production, foodstuffs, and retail distribution.

Our clients have already formed individual teams that are comprised of executives from leading companies in this field to allow for expert input and open approaches to all types of opportunities.

### **5.2 Competitive Edge**

Our patents allow our strategic partners and their clients the competitive edge to be the first with new packaging concepts. Not only does that allow for showcasing certain product, but it allows for new product to be developed where it is advantageous (or necessary) to keep a liquid from a solid until use time. Certainly, in the fields of medicine (injectables) and health (solid and liquid nutrition), our products are one-of-a-kind -- and may be perceived as necessary by the world community. It is because of our technology that we have a number of years in which to develop a strong base of recognition and sales. It is important that we recognize the needs and uses for our technology and build relationships that will allow this growth.

### 5.3 Marketing Strategy

We have chosen our first opportunities into various marketplaces because our strategic partners are well entrenched in the industries for those products. This partnering allows us to concentrate on regulating the company actions and staying focused on our business plan.

#### 5.3.1 Positioning Statements

We are positioning our products in the following marketplaces:

**Celebration Cup** is for Christians who practice their religion, allowing them to receive Communion safely through the cleanliness and convenience of the packaging without on-site preparation and waste.

**12-Hour Mouthwash** is for virtually anyone who needs the best protection available for relationship reasons. Initially, we will target the middle age U.S. population who gets 25 times the protection of any competing product.

**Dental-Pak** is for those who need primary gum protection and cannot brush properly to protect their mouths. This product may be taken to kill germs, build resistance, and it is convenient to handle and use. Most specifically, in this country, we would make it available to the elderly.

**Nutri-Pak** is for the nutritionally-deprived and dying who cannot cook mainstays provided them. Dual packaged items control costs and are less expensive to deliver. Complete nutritional requirements can be met using the proper mixtures and solids per targeted recipients.

**Consumer-Pak** allows for the person needing medication to know that what they take is going to be only that. We will market this product to the international traveller leaving the U.S. who may be concerned about water supplies. This package will allow for medications to be taken as they are supposed to be.

**Pharmaceutical-Pak** should be used in any remote area when an injection is needed. Health care professionals avoid the danger of the being cut while breaking the ampules currently being used. They must also go through a double sterilization process which requires more effort and time.

**Food-Pak** gives the consumer of all ages an opportunity to get foodstuffs that were not available before our packaging. Besides tremendous potential to market new products to

youth, our product allows mixing processes that were never available before so that previous food mix restrictions are lifted.

### **5.3.2 Pricing Strategy**

Remember that our cost advantages, extended shelf life, convenience, and reduced waste & disposal make our products attractive and sensible. The consumer has always been willing to pay for those features. However, in many cases, we bring products to the consumer that they have never thought of.

Fortunately, our products are unique enough so that they will not have a comparative barrier. It is not just that these products are packaged differently to create new markets for old products. In most cases, our products fill voids with products that were not available before our process. If our product line is put together properly, then we will be allowed to make a substantial entry into very profitable product lines.

### **5.3.3 Promotion Strategy**

Our web technology will be unique and interactive. Our technology will allow potential clients to virtually see, design, and use our products to their advantage. Our strategic partners, whether it be from a church base or a cosmetic need, already have lines of distribution. Our product line, as described, has already been accepted and our promotion comes from the manufacturer, distributor, consumer sale company, and the retailer.

We have our own artists and our partners have technical writers and advertising departments. All costs are determined in the price of the product from its manufacturing cost structure. Initial literature will get created by our in-house design department and our marketing department will take advantage of every technologically developed communication tool available.

#### **5.3.4 Marketing Programs**

##### **Celebration Cup**

Compak has successfully proven acceptance for its Celebration Cup within the religious community and has established solid distribution channels for the Celebration Cup and created significant industry alliances. Sales relationships and endorsements have been developed with a multitude of large religious organizations and key distributors who are well connected throughout the Christian community, including Lifeway Christian Resources (the largest international distributor of religious supplies). Glenn Johnson, who was the director of the Communion Cup division of Compak for two years, will follow up on all international leads and begin our U.S. sales efforts by placing this product in a church's "curriculum." This is a regular quarterly rotation of products used in worship services. Costs for this type of marketing and order taking are inconsequential and will start immediately -- generating immediate profit.

##### **12-Hour Mouthwash**

This product is already being sold in a mixed form with 6-hour half-life. Because of our packaging, this can now be marketed in its 12-hour form. Walgreen's and Wal-Mart desire to private label this after the company holding the patent releases it through us.

##### **Dental-Pak**

We have teamed with the company holding the patent on the 12-Hour Mouthwash, who already has a distribution network throughout the country for dental products. Their distribution partner has lines open to hospitals and nursing homes. Our marketing and distribution will be a part of each of their sales staffs.

##### **Nutri-Pak**

We have been working with a world relief organization and a major religious organization to provide these nutrition meals to various parts of the world. We will import our first needs from Compak in China and we will begin setup of our own machinery here in the U.S. so that we can reformulate the cup to more of an energy base and sell it to the camping market. Our sales partner has already started to formulate the marketing with its client who is interested in providing this product.

##### **Future Products**

Our teams are in discussion to schedule release dates for these products and to assess the best way to do so.

## **5.4 Sales Strategy**

Our website will offer complete public relations events, press releases, and network news stories, product roll-outs, both regular mail and e-mail contacts, animated details and descriptions, seminars, industry trade exchanges, and public education. We will use our interactivity to perform the tasks of many so that no idea, contact, or sale will get less than our full attention. Our company is being built on a team concept and communication is the strength of that base.

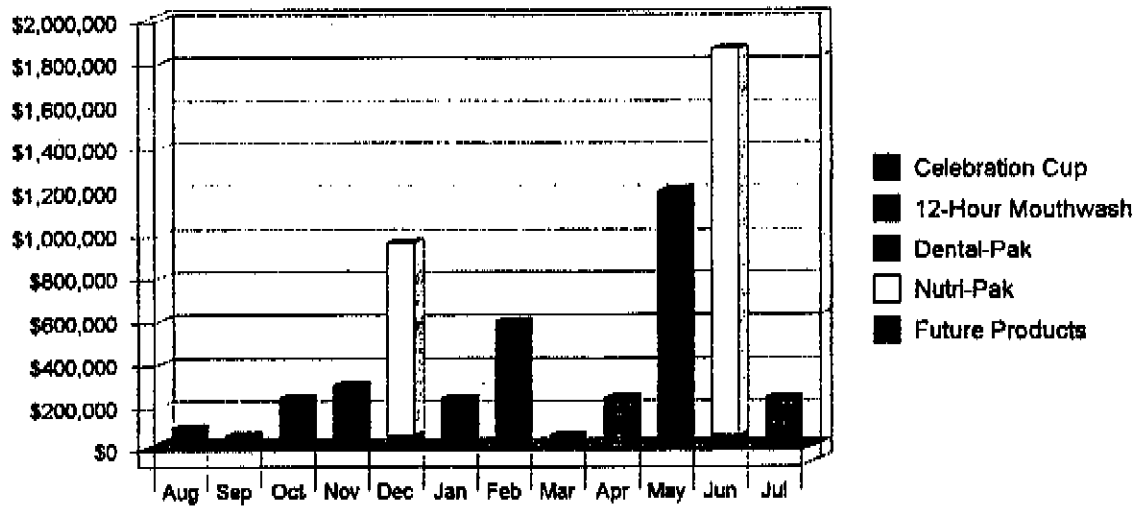
### **5.4.1 Sales Forecast**

Our sales are not projected on the amount that we and our partners can sell. Our projections are based more on the amount of product that we can deliver. We are taking into account that Compak had many opportunities to sell in markets other than China and they were unable to capitalize on the requests they received.

We have eliminated any possibility of not capturing sales by (1) partnering with very strong, deeply entrenched companies in the fields we want to enter, (2) only developing products that have already been accepted by the clients of our partners as viable sales items, (3) bringing experts into our teams to handle everything from the books to the distribution. We realize that sales are made with good products, but we are well aware of the fact that product must be delivered in spec, on time, and customer service must be available to deal with every inevitable problem that will arise.

We are fortunate to have been given sales opportunities after extensive and expensive R&D has given us products that are unique and profitable. We will now meet our challenges by organizing our manufacturing and delivery needs to become a profitable and respected company: meeting our goals and living by our mission statement.

### Sales Monthly





## Duo-Tech

Table 5.4.1: Sales Forecast

Sales Forecast			
Unit Sales	FY2002	FY2003	FY2004
Celebration Cup	22,000,000	40,000,000	80,000,000
12-Hour Mouthwash	4,000,000	6,000,000	8,000,000
Dental-Pak	1,200,000	1,800,000	2,400,000
Nutri-Pak	9,000,000	18,000,000	36,000,000
Future Products	0	12,000,000	24,000,000
Total Unit Sales	36,200,000	77,800,000	150,400,000

Unit Prices	FY2002	FY2003	FY2004
Celebration Cup	\$0.10	\$0.10	\$0.10
12-Hour Mouthwash	\$0.24	\$0.24	\$0.24
Dental-Pak	\$0.22	\$0.22	\$0.22
Nutri-Pak	\$0.30	\$0.30	\$0.30
Future Products	\$0.00	\$0.35	\$0.35

Sales	FY2002	FY2003	FY2004
Celebration Cup	\$2,200,000	\$4,000,000	\$8,000,000
12-Hour Mouthwash	\$960,000	\$1,440,000	\$1,920,000
Dental-Pak	\$264,000	\$396,000	\$528,000
Nutri-Pak	\$2,700,000	\$5,400,000	\$10,800,000
Future Products	\$0	\$4,200,000	\$8,400,000
Total Sales	\$6,124,000	\$15,436,000	\$29,648,000

Direct Unit Costs	FY2002	FY2003	FY2004
Celebration Cup	\$0.07	\$0.06	\$0.06
12-Hour Mouthwash	\$0.14	\$0.13	\$0.13
Dental-Pak	\$0.12	\$0.11	\$0.11
Nutri-Pak	\$0.22	\$0.22	\$0.22
Future Products	\$0.00	\$0.24	\$0.24

Direct Cost of Sales	FY2002	FY2003	FY2004
Celebration Cup	\$1,540,000	\$2,400,000	\$4,800,000
12-Hour Mouthwash	\$560,000	\$780,000	\$1,040,000
Dental-Pak	\$144,000	\$198,000	\$264,000
Nutri-Pak	\$1,980,000	\$3,960,000	\$7,920,000
Future Products	\$0	\$2,880,000	\$5,760,000
Subtotal Direct Cost of Sales	\$4,224,000	\$10,218,000	\$19,784,000

## 5.4.2 Sales & Distribution Programs

Our sales programs are built through our strategic partners and their clients, who are in the fields of medical and foodstuffs products. Our distributor partner already has distribution channels that cover the nation and extend to the Far East and Central and South America.

## 5.5 Strategic Alliances

### E. Greenberg Corporation

E. Greenberg Corporation is a packaging sales and marketing company. They have been in business for fourteen years. They offer services to supermarkets, fast food chains, industrial distributors, and the retail trade. They represent market leaders, as well as, specialty manufacturers in the packaging industry. As project members, they have been involved in all stages of the design, implementation, and marketing into local, regional, and national accounts. E. Greenburg has the ability and respect to put expert teams together to handle any new product and packaging ideas.

### Olmarc Packaging

Olmarc has two full service plants with ample room to set up production lines for all food items. Their production capabilities include everything from canning, pouching, cartoning, shrinking and overwrapping, blending and bottling, as well as, labeling, multi-packing and thermoforming. They provide a complete Technical Services department with online testing and production line monitoring capabilities. They have a full service test kitchen and a full complement of chemists. Their Engineering Services Department can design, build, and modify equipment, machinery, processes, and systems. If there is a company that needs to package a food item in this country, they know who Olmarc is.

#### **Star Promotions**

Star is an established mass marketing distribution company. Their expertise in product selection and distribution has proven to enable its retail clients to receive a substantially higher return on their investment. They deal with many Fortune 500 firms and they have extensive relations with the major sports authorities, including the NFL, MLB, NBA, and NHL. They have an extensive fund raising division and are affiliated with various church groups and national enrollment organizations. Over the years, Star has cultivated many dependable and trusted importing and exporting channels. Their network of sales representatives encompass thirty states. Star specializes in "hot" markets across the country and regularly are able to call on every major retailer. They have proved over the years that when something needs to get into the hands of a consumer, they can answer the call.

#### **Virotek**

Virotek is a new and unique rapid diagnostic manufacturing facility for medical technology products. They offer a host of contract R&D and manufacturing services, including: Injection Molding, Strip Manufacturing, Reagent Application, Lab Services, Cleanroom Assembly and Packaging. Their office staff can provide Distribution and Billing services. They maintain a full complement of scientists, engineers, mechanics, and electricians. Their turnaround time for prototype parts is remarkably fast -- well below industry lead times. They maintain a complete machine shop and are constantly in development of faster processes for new, better, and more efficient solutions to their clients' needs. Efoora (Virotek's parent) is a business in Chicago's 50 To Watch.

#### **X-ugiss**

X-ugiss has staff throughout the country who work together, bringing expertise from many fields of web development. Using the most current tools available, there is no website need that this company cannot handle. They can provide a client with static or dynamic designs, animation in the forms of GIF's, Flash, or Shockwave material, and videos from different formats, to place no restrictions on any of the information that a company needs to disseminate. Websites can be designed to allow for public viewing and/or password secured areas. And, if e-commerce is needed, X-ugiss has developed a proprietary, secure system with full flexibility to handle any number of products in any selling environment.

## 5.6 Milestones

The accompanying table shows specific milestones, with responsibilities assigned, dates, and (in most cases) budgets. We are focusing, in this plan, on milestones that can be accomplished to grow solidly and credibly.

Table 5.6: Milestones

Milestones	Start Date	End Date	Budget	Manager	Department
Milestones					
Contracts and Accounting	6/1/01		\$15,000	Binkley	
Purchase/Lease Klockner C/P-R	9/1/01		\$100,000	Johnson	
Rent Office Space	7/1/01		\$1,500	Binkley	
Purchase Office Needs	7/1/01		\$1,000	Management	
Computerize Office	7/1/01		\$10,000	Carlson	
Begin Sample Production	11/1/01		\$5,000	Johnson	
Begin Sales Efforts	8/1/01			Greenberg	
Begin Production	12/1/01			Partners	
Finish Website	10/1/01		\$15,000	Carlson	
Extend Sales Efforts	12/1/01			Carlstrom	
Totals			\$147,500		

## \* 6.0 Management Summary

Dr. Kenneth Binkley will act as Chief Operating Officer and Bruce Carlson will act as the company manager handling daily activities. A triumvirate will present all growth and production issues to Bruce Carlson in order to allow for maximum information processing and planning before final decisions are needed. Dr. Binkley and Bruce Carlson will make final decisions that will be in the best interest of the company and in accordance with the company's business practices. The members of the triumvirate will be Ed Greenberg (representing sales), Glenn Johnson (representing production), and Arnold Carlstrom (representing distribution). Each management unit (as defined in 6.1 Organizational Structure) will have autonomous power to reach its goals and fulfill its responsibilities.

### 6.1 Organizational Structure

Our company is divided into the following areas of need and expertise.

**Triumvirate** - Ed Greenberg, Glenn Johnson, Arnold Carlstrom

**Financial Development** - Dr. Kenneth Binkley

**Legal** - Outside attorneys with interface through Dr. Kenneth Binkley

**Accounting** - Outside accountants with interface through Dr. Kenneth Binkley

**Internet Technology** - Bruce Carlson and X-ugiss

**Market Research** - Team of industry consultants with Triumvirate

**Marketing** - Bruce Carlson, Ed Greenberg

**Sales** - Bruce Carlson, Ed Greenberg, Arnold Carlstrom and Star Promotions

**Product Feasibility** - Triumvirate

**Project Management** - Glenn Johnson, Arnold Carlstrom

**Product Development** - Ed Greenberg, Ken Marchetti and Olmarc, David Seitelman and Virotek

**Foodstuffs Manufacturing** - Ken Marchetti and Olmarc

**Medical Products Manufacturing** - David Seitelman and Virotek

## **6.2 Management Team**

**Dr. Kenneth Binkley** [COO], Orthodontist, private practice, fluoride expert, teacher, lecturer, author.

**Bruce Carlson** [Manager], computer expert, entrepreneur for thirty years, four successful start-ups, two national.

**Arnold Carlstrom** [Distribution], officer/owner of Star Promotions, twelve years manufacturing management before Star.

**Ed Greenberg** [Sales], CEO of E. Greenberg Corporation, Hollywood productions, relationship builder, packaging expert.

**Glenn Johnson** [Production], five years with Compak, Director of Communion Division for two, process expert.

## **6.3 Management Team Gaps**

At this time, through its strategic relationships, we see no gaps in our management team. It is imperative to understand, though, that acceptance of the status quo may sometimes stymie allowed growth -- or more importantly -- allow for lack of reaction in current product lines. Therefore, each member of the Triumvirate will be responsible for a certain number of the teams in the organizational structure. Each member of the Triumvirate and its teams will reap financial reward for the consequences of their success. It is this structure that allows us to invite industry leaders to build our growth. This control and ability to bring in the best team members at any time allow us to stay at our most productive and profitable level.

## 6.4 Personnel Plan

The payroll and lead commissions will be as follows:

### Salaried

Dr. Kenneth Binkley - will draw against company percentage of profit. Benefits begin second fiscal year.

Bruce Carlson - will draw against company percentage of profit. Benefits begin immediately.

Glenn Johnson - will draw against company percentage of profit. Benefits begin immediately.

### Commissioned

Arnold Carlstrom - will receive payroll from Star Promotions.

Ed Greenberg - will receive a commission from sales on products and accounts that are assigned.

Table 6.4: Personnel

Personnel Plan Personnel	FY2002	FY2003	FY2004
Dr. Kenneth Binkley	\$95,000	\$180,000	\$180,000
Bruce Carlson	\$180,000	\$180,000	\$180,000
Glenn Johnson	\$90,000	\$90,000	\$90,000
Total Payroll	\$365,000	\$450,000	\$450,000
Total Headcount	3	3	3
Payroll Burden	\$40,850	\$67,500	\$67,500
Total Payroll Expenditures	\$405,850	\$517,500	\$517,500

## 7.0 Financial Plan

Because of the unique opportunity to begin a company that is free of debt and has had all of its R&D done for it (through Compak Corporation), we stand an excellent chance of being a successful start-up company. We are inevitably drawn into more of a management role than trailblazing one, allowing for execution of our planning (based on other trials) and success based on solid, controlled principals.

### 7.1 Important Assumptions

Our financial plan depends on important assumptions, most of which are shown in the following table. The key underlying assumptions are:

- \* We will regulate our own growth rate based on fulfillment of product deliveries into new marketplaces.
- \* We assume, of course, that there are no unforeseen changes in technology to make products immediately obsolete.
- \* We assume access to equity capital and financing sufficient to maintain our financial plan as shown in the tables.

Table 7.1: General Assumptions

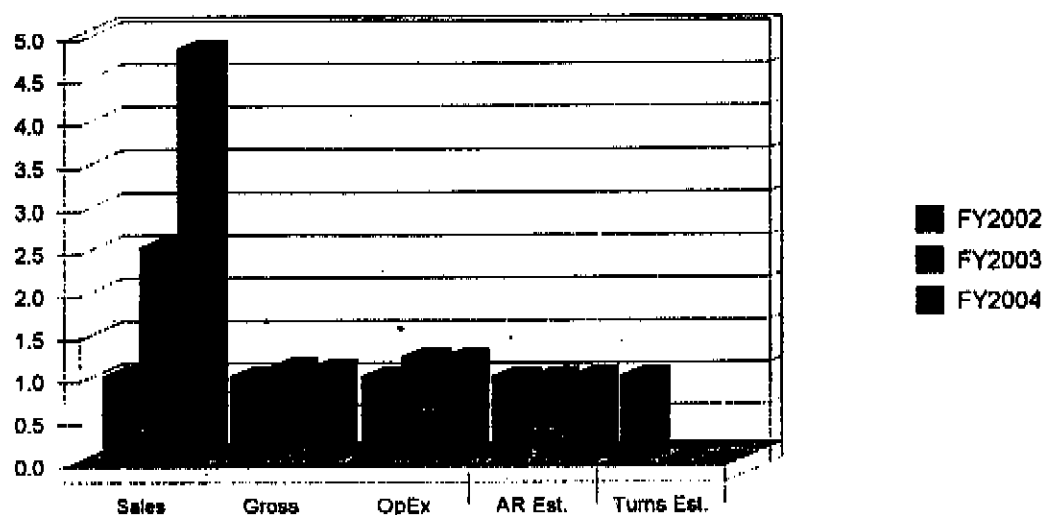
General Assumptions	FY2002	FY2003	FY2004
Short-term Interest Rate %	6.00%	6.00%	6.00%
Long-term Interest Rate %	0.00%	0.00%	0.00%
Payment Days Estimator	30	30	30
Collection Days Estimator	30	30	30
Inventory Turnover Estimator	0.30	0.00	0.00
Tax Rate %	25.00%	25.00%	25.00%
Expenses in Cash %	5.00%	5.00%	5.00%
Sales on Credit %	75.00%	75.00%	75.00%
Personnel Burden %	11.19%	15.00%	15.00%

## 7.2 Key Financial Indicators

The most important factor of our company is making sure that we start without financial need to manage properly. The orders currently available to us are well beyond our current production capability, but well within the productive capability of our strategic partners. Our growth in sales will be very hard to manage and it will to be done using the experience of each of our key managers. As such, the management of the company cannot be encumbered with worrying about start-up expenses. Although our strategic partners are arranging unique and cost-efficient options for us to begin manufacturing, all of the phases of our company must be able to run without qualification to build on the sales volume that will immediately be available to us.

Our margins will continue to rise as our buying for raw products continues to increase, allowing us to become as successful as other firms who are packaging with many years of experience.

### Benchmarks

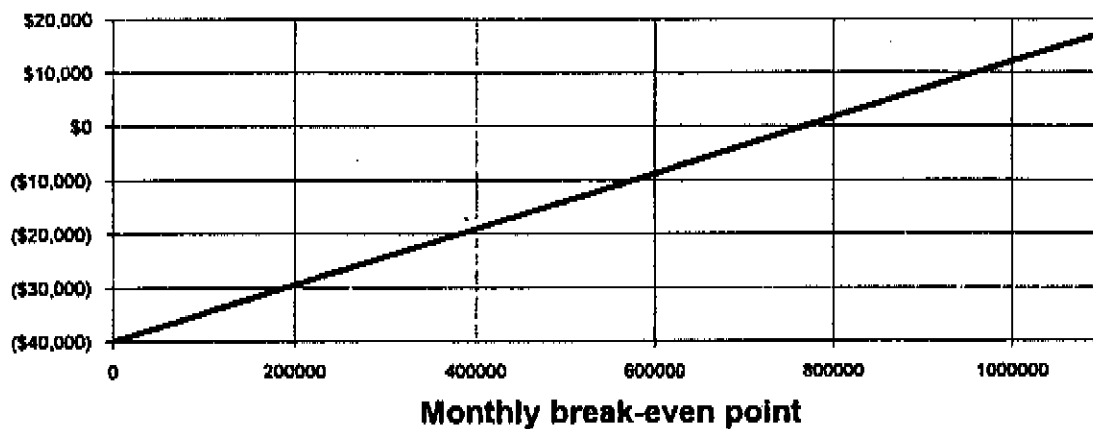


### 7.3 Break-even Analysis

Our break-even analysis is based on delivery of product. Since our costs are accumulated internally, we have the option of controlling such after startup. Between payroll, rent, utilities, and basic marketing costs, we think \$40,000 is a good estimate of fixed costs.

Our assumptions on average unit sales and average per unit costs depend on averaging. The essential insight here is that our sales level seems to be running comfortably above break-even.

#### Break-even Analysis



Break-even point = where line intersects with 0

Table 7.3: Break-even Analysis

<b>Break-even Analysis:</b>	
Monthly Units Break-even	769,231
Monthly Sales Break-even	\$130,000
<b>Assumptions:</b>	
Average Per-Unit Revenue	\$0.17
Average Per-Unit Variable Cost	\$0.12
Estimated Monthly Fixed Cost	\$40,000

## 7.4 Projected Profit and Loss

We expect income to hit \$1,000,000 for our first full year, on a no cost vs. sale basis. Our company is solely profitable on its pass-through margins. It should increase to more than five million dollars by the third year of this plan, as four products should be in distribution to world markets by that time.

Table 7.4: Profit and Loss

Profit and Loss (Income Statement)	FY2002	FY2003	FY2004
Sales	\$6,124,000	\$15,436,000	\$29,648,000
Direct Cost of Sales	\$4,224,000	\$10,218,000	\$19,784,000
Other	\$60,000	\$75,000	\$90,000
Total Cost of Sales	\$4,284,000	\$10,293,000	\$19,874,000
Gross Margin	\$1,840,000	\$5,143,000	\$9,774,000
Gross Margin %	30.05%	33.32%	32.97%
Operating expenses:			
Advertising/Promotion	\$0	\$0	\$0
Travel	\$0	\$0	\$0
Miscellaneous	\$0	\$0	\$0
Payroll Expense	\$365,000	\$450,000	\$450,000
Payroll Burden	\$40,573	\$67,500	\$67,500
Depreciation	\$27,900	\$27,900	\$20,400
Leased Equipment	\$0	\$0	\$0
Utilities	\$6,000	\$0	\$0
Insurance	\$2,500	\$0	\$0
Rent	\$9,000	\$9,000	\$12,000
Contract/Consultants	\$0	\$0	\$0
Total Operating Expenses	\$450,973	\$554,400	\$549,900
Profit Before Interest and Taxes	\$1,389,028	\$4,588,600	\$9,224,100
Interest Expense Short-term	\$7,268	\$8,340	\$8,340
Interest Expense Long-term	\$0	\$0	\$0
Taxes Incurred	\$345,440	\$1,145,065	\$2,303,940
Extraordinary Items	\$0	\$0	\$0
Net Profit	\$1,036,320	\$3,435,195	\$6,911,820
Net Profit/Sales	16.92%	22.25%	23.31%

## 7.5 Projected Cash Flow

We expect to manage cash flow within the first two years with \$500,000 of investment as initial equity investment. We will also borrow an additional \$100,000 in the our first year to buy a small production and sample-making machine. The additional financing resources are required to finance the working capital of a growing business.



### Cash

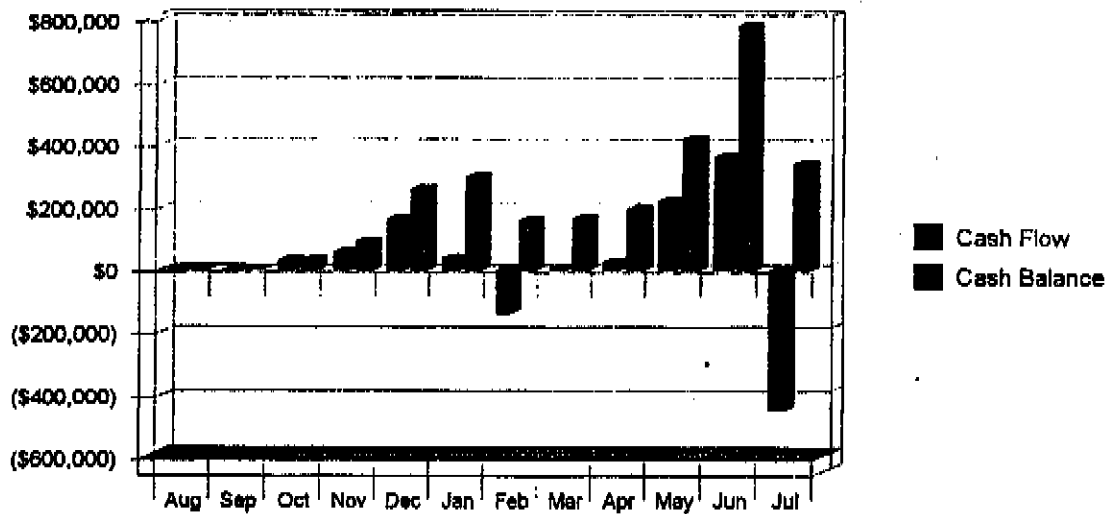


Table 7.5: Cash Flow

Pro-Forma Cash Flow			
	FY2002	FY2003	FY2004
Net Profit	\$1,036,320	\$3,435,195	\$6,911,826
Plus:			
Depreciation	\$27,900	\$27,900	\$20,400
Change in Accounts Payable	\$147,537	\$775,027	\$818,042
Current Borrowing (repayment)	\$39,000	\$0	\$0
Increase (decrease) Other Liabilities	\$0	\$0	\$0
Long-term Borrowing (repayment)	\$0	\$0	\$0
Capital Input	\$0	\$0	\$0
Subtotal	\$1,250,757	\$4,238,122	\$7,750,262
Less:			
Change in Accounts Receivable	\$180,000	\$373,703	\$417,727
Change in Inventory	(\$5,000)	\$0	\$0
Change in Other Short-term Assets	\$0	\$0	\$0
Capital Expenditure	\$0	\$0	\$0
Dividends	\$750,000	\$2,500,000	\$5,000,000
Subtotal	\$925,000	\$2,773,703	\$5,417,727
Net Cash Flow	\$325,757	\$1,464,418	\$2,332,535
Cash Balance	\$340,757	\$1,805,175	\$4,137,711

## 7.6 Projected Balance Sheet

As shown in the balance sheet in the following table, we expect little change in our assets over the years since our company grows as a sales organization more than an asset-based entity.

Table 7.6: Balance Sheet

Pro-forma Balance Sheet

Assets	FY2002	FY2003	FY2004
<b>Short-term Assets</b>			
Cash	\$20,757	\$1,805,175	\$4,137,711
Accounts Receivable	\$15,000	\$453,703	\$871,430
Inventory	\$0	\$0	\$0
Other Short-term Assets	\$0	\$0	\$0
<b>Total Short-term Assets</b>	<b>\$35,757</b>	<b>\$2,258,879</b>	<b>\$5,009,141</b>
<b>Long-term Assets</b>			
Capital Assets	\$1,000,000	\$100,000	\$100,000
Accumulated Depreciation	\$27,900	\$55,800	\$76,200
<b>Total Long-term Assets</b>	<b>\$972,100</b>	<b>\$44,200</b>	<b>\$23,800</b>
<b>Total Assets</b>	<b>\$1,327,857</b>	<b>\$2,303,079</b>	<b>\$5,032,941</b>
<b>Liabilities and Capital</b>			
	FY2002	FY2003	FY2004
Accounts Payable	\$147,537	\$923,564	\$1,740,606
Short-term Notes	\$139,000	\$139,000	\$139,000
Other Short-term Liabilities	\$0	\$0	\$0
<b>Subtotal Short-term Liabilities</b>	<b>\$286,537</b>	<b>\$1,061,564</b>	<b>\$1,879,606</b>
<b>Long-term Liabilities</b>	<b>\$1,000,000</b>	<b>\$100,000</b>	<b>\$100,000</b>
<b>Total Liabilities</b>	<b>\$1,286,537</b>	<b>\$1,161,564</b>	<b>\$1,979,606</b>
<b>Paid in Capital</b>	<b>\$500,000</b>	<b>\$500,000</b>	<b>\$500,000</b>
<b>Retained Earnings</b>	<b>(\$1,537,000)</b>	<b>(\$2,793,680)</b>	<b>(\$4,358,485)</b>
<b>Earnings</b>	<b>\$1,56,320</b>	<b>\$3,435,195</b>	<b>\$6,911,820</b>
<b>Total Capital</b>	<b>\$216,320</b>	<b>\$1,141,515</b>	<b>\$3,053,335</b>
<b>Total Liabilities and Capital</b>	<b>\$1,502,857</b>	<b>\$2,303,079</b>	<b>\$5,032,941</b>
<b>Net Worth</b>	<b>\$216,320</b>	<b>\$1,141,515</b>	<b>\$3,053,335</b>

## 7.7 Business Ratios

Our ratios look healthy and solid. Gross margin is projected to stay at 30% and our net margin should level in at 22%. The ratios show a plan for balanced, healthy growth. Our return on sales and return on assets remain as strong as ever, actually increasing in percentage terms as volume increases.

## Duo-Tech

Table 7.7: Ratios

Ratio Analysis	FY2002	FY2003	FY2004	Industry Profile
Sales Growth	0.00%	252.06%	192.07%	1.60%
Percent of Total Assets	FY2002	FY2003	FY2004	Industry Profile
Accounts Receivable	30.36%	19.70%	17.31%	20.40%
Inventory	0.00%	0.00%	0.00%	20.80%
Other Short-term Assets	0.00%	0.00%	0.00%	22.60%
Total Short-term Assets	87.84%	98.08%	99.53%	63.80%
Long-term Assets	12.16%	1.92%	0.47%	36.20%
Total Assets	100.00%	100.00%	100.00%	100.00%
Other Short-term Liabilities	0.00%	0.00%	0.00%	33.80%
Subtotal Short-term Liabilities	48.33%	46.09%	37.35%	32.30%
Long-term Liabilities	16.87%	4.34%	1.99%	22.00%
Total Liabilities	65.20%	50.44%	39.33%	55.80%
Net Worth	34.80%	49.56%	60.67%	44.20%
Percent of Sales	FY2002	FY2003	FY2004	Industry Profile
Sales	100.00%	100.00%	100.00%	100.00%
Gross Margin	30.05%	33.32%	32.97%	29.30%
Selling, General & Administrative Expenses	13.12%	11.06%	9.63%	17.30%
Advertising Expenses	0.00%	0.00%	0.00%	0.30%
Profit Before Interest and Taxes	22.68%	29.73%	31.11%	3.70%
Ratios	FY2002	FY2003	FY2004	Industry Profile
Current	1.82	2.13	2.66	1.81
Quick	1.82	2.13	2.66	1.05
Total Debt to Total Assets	65.20%	50.44%	39.33%	55.80%
Pre-Tax Return on Net Worth	676.76%	402.71%	302.37%	7.60%
Pre-Tax Return on Assets	235.52%	199.60%	183.44%	17.30%

## Appendix: Duo-Tech

Table 5.41 Sales Forecast

Sales Forecast		FY2002												FY2003		FY2004	
Unit Sales	Avg	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Celebration Cup	1,000,000	0	0	3,000,000	0	0	6,000,000	0	0	12,000,000	0	0	22,000,000	40,000,000	60,000,000	80,000,000	100,000,000
12-Hour Mouthwash	0	0	1,000,000	0	0	0	0	300,000	0	0	0	1,000,000	1,300,000	1,800,000	2,400,000	3,000,000	3,600,000
Dental-Pak	0	300,000	0	0	300,000	0	0	0	0	0	0	0	9,000,000	18,000,000	27,000,000	36,000,000	45,000,000
Mini-Pak	0	0	0	0	3,000,000	0	0	0	0	0	0	0	12,000,000	24,000,000	36,000,000	48,000,000	60,000,000
Future Products	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Unit Sales	1,000,000	300,000	1,000,000	3,000,000	3,300,000	1,000,000	6,000,000	300,000	1,000,000	12,000,000	6,300,000	1,000,000	36,000,000	77,800,000	104,400,000	134,000,000	168,600,000
Unit Prices																	
Celebration Cup	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10
12-Hour Mouthwash	\$0.24	\$0.24	\$0.24	\$0.24	\$0.24	\$0.24	\$0.24	\$0.24	\$0.24	\$0.24	\$0.24	\$0.24	\$0.24	\$0.24	\$0.24	\$0.24	\$0.24
Dental-Pak	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22
Mini-Pak	\$0.30	\$0.30	\$0.30	\$0.30	\$0.30	\$0.30	\$0.30	\$0.30	\$0.30	\$0.30	\$0.30	\$0.30	\$0.30	\$0.30	\$0.30	\$0.30	\$0.30
Future Products	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Sales																	
Celebration Cup	\$100,000	\$0	\$0	\$300,000	\$0	\$0	\$600,000	\$0	\$0	\$1,200,000	\$0	\$0	\$2,200,000	\$4,000,000	\$6,000,000	\$8,000,000	\$10,000,000
12-Hour Mouthwash	\$0	\$0	\$240,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$240,000	\$384,000	\$528,000	\$672,000	\$816,000	\$960,000
Dental-Pak	\$0	\$66,000	\$0	\$0	\$66,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,800,000	\$3,600,000	\$5,400,000	\$7,200,000	\$9,000,000
Mini-Pak	\$0	\$0	\$0	\$0	\$900,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$3,600,000	\$7,200,000	\$10,800,000	\$14,400,000	\$18,000,000
Future Products	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Sales	\$100,000	\$66,000	\$240,000	\$900,000	\$666,000	\$240,000	\$600,000	\$66,000	\$240,000	\$1,200,000	\$1,800,000	\$240,000	\$6,134,000	\$15,432,000	\$20,616,000	\$26,496,000	\$33,560,000
Direct Unit Costs																	
Celebration Cup	\$0.07	\$0.07	\$0.07	\$0.07	\$0.07	\$0.07	\$0.07	\$0.07	\$0.07	\$0.07	\$0.07	\$0.07	\$0.07	\$0.07	\$0.07	\$0.07	\$0.07
12-Hour Mouthwash	\$0.14	\$0.14	\$0.14	\$0.14	\$0.14	\$0.14	\$0.14	\$0.14	\$0.14	\$0.14	\$0.14	\$0.14	\$0.14	\$0.14	\$0.14	\$0.14	\$0.14
Dental-Pak	\$0.12	\$0.12	\$0.12	\$0.12	\$0.12	\$0.12	\$0.12	\$0.12	\$0.12	\$0.12	\$0.12	\$0.12	\$0.12	\$0.12	\$0.12	\$0.12	\$0.12
Mini-Pak	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22	\$0.22
Future Products	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Direct Cost of Sales																	
Celebration Cup	\$70,000	\$0	\$0	\$210,000	\$0	\$0	\$420,000	\$0	\$0	\$840,000	\$0	\$0	\$1,540,000	\$2,800,000	\$4,200,000	\$5,600,000	\$7,000,000
12-Hour Mouthwash	\$0	\$0	\$140,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$140,000	\$224,000	\$308,000	\$392,000	\$476,000
Dental-Pak	\$0	\$36,000	\$0	\$0	\$36,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,080,000	\$2,160,000	\$3,240,000	\$4,320,000	\$5,400,000
Mini-Pak	\$0	\$0	\$0	\$0	\$660,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,520,000	\$5,040,000	\$7,560,000	\$10,080,000	\$12,600,000
Future Products	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Direct Cost of Sales	\$70,000	\$36,000	\$140,000	\$210,000	\$696,000	\$140,000	\$420,000	\$36,000	\$140,000	\$840,000	\$1,080,000	\$140,000	\$4,140,000	\$8,224,000	\$11,948,000	\$15,796,000	\$19,576,000

## Appendix: Duo-Tech

Table 6.4 Personnel

Personnel Plan		Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	FY2002	FY2003	FY2004
Personnel																
Dr. Kenneth Budder		\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$95,000	\$180,000	\$180,000
Bruce Carlson		\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$180,000	\$180,000	\$180,000
Glenn Johnson		\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$90,000	\$90,000	\$90,000
Total Payroll		\$27,500	\$27,500	\$27,500	\$27,500	\$27,500	\$32,500	\$32,500	\$32,500	\$32,500	\$32,500	\$32,500	\$32,500	\$365,000	\$450,000	\$450,000
Total Headcount		3	3	3	3	3	3	3	3	3	3	3	3	3	3	3
Payroll Burden		\$3,383	\$3,383	\$3,383	\$3,383	\$3,383	\$3,380	\$3,380	\$3,380	\$3,380	\$3,380	\$3,380	\$3,380	\$40,850	\$67,500	\$67,500
Total Payroll Expenditures		\$30,883	\$30,883	\$30,883	\$30,883	\$30,883	\$35,880	\$35,880	\$35,880	\$35,880	\$35,880	\$35,880	\$35,880	\$405,850	\$517,500	\$517,500

## Appendix: Duo-Tech

Table 7.1 General Assumptions

General Assumptions		Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	FY2002	FY2003	FY2004
Short-term Interest Rate %		6.00%	6.00%	6.00%	6.00%	6.00%	6.00%	6.00%	6.00%	6.00%	6.00%	6.00%	6.00%	6.00%	6.00%	6.00%
Long-term Interest Rate %		0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Payment Days Estimator		30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
Collection Days Estimator		30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
Inventory Turnover Estimator		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Turn Rate %		25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%	25.00%
Expenses in Cash %		5.00%	5.00%	5.00%	5.00%	5.00%	5.00%	5.00%	5.00%	5.00%	5.00%	5.00%	5.00%	5.00%	5.00%	5.00%
Sales on Credit %		75.00%	75.00%	75.00%	75.00%	75.00%	75.00%	75.00%	75.00%	75.00%	75.00%	75.00%	75.00%	75.00%	75.00%	75.00%
Personal Burden %		12.30%	12.30%	12.30%	12.30%	12.30%	10.40%	10.40%	10.40%	10.40%	10.40%	10.40%	10.40%	11.19%	15.00%	15.00%

# **Appendix Ex. 60**

IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

In Re:

COMPAK CORPORATION,

) No. 02B22594

TRANSCRIPT OF PROCEEDINGS OF 363 SALE held  
in the above-entitled matter in the Courtroom of the  
HONORABLE JOHN H. SQUIRES, 219 South Dearborn, Chicago,  
Illinois, on the 19th day of March, 2003, at the hour of  
2:00 o'clock p.m.



1 MR. DAVIS: If I could have your attention,  
2 please, my name is Mike Davis. I'm the attorney for  
3 Compak Corporation. I originally began this as the  
4 attorney for Communion Packaging. I was hired, by leave  
5 of Bankruptcy Court, for the purpose of assisting Compak  
6 Corporation in conducting the sale.

7 This sale is -- let's talk about a few  
8 elements of the sale. First of all, this sale is being  
9 conducted pursuant to Section 363 of the Bankruptcy Code  
10 and is being conducted pursuant to a motion that was  
11 sent out on notice to all creditors and all parties in  
12 interest. In that motion, there was an asset purchase  
13 agreement that was attached to that. That asset  
14 purchase agreement represented a bid for all of the  
15 assets of Compak Corporation. That was sent out as a  
16 representative sample and the bid procedures were  
17 approved by the Bankruptcy Court before the motion to  
18 sell pursuant to Section 363 was sent out on notice.

19 There are several issues that we need  
20 to discuss, I believe, before the bidding begins. The  
21 first issue is that this sale being conducted today is  
22 being recorded by a court reporter. So when you stand  
23 and when you have any comments, if you would please  
24 precede the comments that you make by introducing  
25 yourself so that the court reporter can tell who it is

1 that's talking. Also if you would speak audibly and  
2 loudly and remember that the court reporter can't take  
3 down any nods of the head or assent, anything along  
4 those lines, that the court reporter needs to be able to  
5 take down a verbal comment. Okay?

6 I'd like to begin by addressing two  
7 particular issues. There are two pieces of information  
8 which I have been given in the last 15 minutes. The  
9 first piece of information was a statement that  
10 Mr. Johnson made pursuant, as we were dealing with the  
11 objections of Mr. Green in relation to the ownership of  
12 the patent. And seeing as I've had a conversation with  
13 Mr. Johnson and he has explained what the purpose of his  
14 statement was, I believe in the essence of, in the  
15 spirit of full disclosure that he needs to clarify those  
16 statements. That's number one.

17 Number two is I have been informed in  
18 the last five minutes that Mr. Johnson is represented by  
19 Mr. Ariel Weissberg; that Mr. Weissberg is his personal  
20 attorney. In addition, Mr. Johnson filed with the court  
21 yesterday a statement in reference to the sale of the  
22 assets which indicated that I, Jim Johnson, make no  
23 representations or warranties in reference to the sale  
24 of the assets scheduled for March 20th in this court,  
25 including the rights of Compak Corporation, or Communion

1 Packaging Company, to any intellectual assets.

2 Obviously, that was the subject of the  
3 discussion that we were having prior to this, prior to  
4 conducting the sale with Judge Squires. And because I  
5 was not aware that Mr. Johnson had filed that with the  
6 court yesterday and because this is the first time that  
7 I have seen this document, it is necessary that document  
8 be made known to any potential bidder in the room at  
9 this particular point in time. I think in light of  
10 Judge Squires' comments that this sale can be conducted  
11 and, buyers beware. As long as there is a level playing  
12 field that statement needs to be taken into  
13 consideration in relation to any debt.

14 Yes, sir?

15 MR. GREEN: I have not seen the document.

16 MR. DAVIS: Could you please state your name.

17 MR. GREEN: Russell Green, attorney for BMJ  
18 Partners. I have not seen the document in which those  
19 statements were contained. My question is is he making  
20 those in his individual capacity as Jimmy Johnson, or is  
21 he making them as an officer and agent of Compak  
22 Corporation that has already represented and warranted  
23 that it owns good title to that patent.

24 MR. DAVIS: Well, it indicates that I, Jim  
25 Johnson, makes no representations or warranties in

1 reference to the sale of the assets. Now certainly the  
2 bankruptcy estate and the debtor would have a claim in  
3 the event that he was making those representations and  
4 warranties as a corporate officer because there are  
5 representations and warranties on file at this  
6 particular point in time. However, it may be again in  
7 the interest of the bidders today and, in the interest  
8 of full disclosure, I would welcome any potential bidder  
9 that has questions about Mr. Johnson's statement in the  
10 prior hearing or in relation to the statement that he  
11 filed with the Bankruptcy Court yesterday to be free to  
12 ask those questions.

13               Again, I would like to reiterate that  
14 Ms. Lopez and myself, as attorneys for the debtor, heard  
15 those statements the first time when Mr. Johnson made  
16 them, and this is the first time that I have seen the  
17 statement made by Mr. Johnson. So with that in mind,  
18 the floor is open for questions.

19               MR. JONES: Michael Jones, attorney on behalf  
20 of Louis A. Holland and Holland Capital Management. Is  
21 Nationwide Trucking still a stalking horse bidder in  
22 this auction?

23               MR. DAVIS: No. They have withdrawn their  
24 bid.

25               MR. JONES: So Mr. Weissberg no longer

1 represents Nationwide Trucking?

2 MR. DAVIS: I do not know that.

3 MR. JONES: And he now represents  
4 Mr. Johnson?

5 MR. DAVIS: He'd indicated to me about four  
6 minutes ago that he is Mr. Johnson's personal attorney.

7 MR. JONES: Okay. I just wanted to make that  
8 clear.

9 MR. DAVIS: Mr. Green?

10 MR. GREEN: Russell Green, again. The  
11 record, of course, will be what it is with respect to  
12 what Mr. Johnson said verbally earlier. I understood  
13 him to say that the patent being sold, number 5246106,  
14 may not be the patent under which manufacturing is  
15 occurring.

16 My question to you, and I think it is a  
17 legitimate question to ask, are there other patents  
18 being used by Compak or Communion to manufacture  
19 communion cups? And, if so, what is the nature of the  
20 agreement pursuant to which they're being used? That is  
21 a corporate activity of the debtor-in-possession. And  
22 if there is either a written assignment; or a written  
23 and contractual agreement; or a verbal agreement, we're  
24 entitled to know that and what the terms and conditions  
25 are.

1           MR. DAVIS: That's correct. Let me explain  
2 what Mr. Johnson explained to me. Mr. Johnson can  
3 supplement this, if necessary, but what he explained is  
4 that the communion cup is currently being produced on  
5 the CP-11 machine. In order for the CP-11 machine to  
6 produce the communion cup that is the patent being sold,  
7 it would have to be adapted for that purpose. The  
8 communion cup that is currently being produced by the  
9 CP-11 machine has been altered and is not the product  
10 represented in the patent that's being sold. It does  
11 not mean that the CP-11 machine cannot produce the  
12 patent that is being sold. And, in fact, the communion  
13 cup that is now being manufactured is a communion cup  
14 that is not covered by the patent that's being sold.

15           Again, in order for the CP-11 to  
16 produce the patented, in order for it to produce the  
17 communion cup represented by the patent that is being  
18 sold today, that machine has to be modified. It  
19 requires some adapters in order to be able to  
20 manufacture it. There is a communion cup patent that is  
21 being sold that the debtor has the rights to and that is  
22 the communion cup patent that is being sold today.

23           MR. GREEN: What rights does it have to the  
24 patent that is actually being used?

25           MR. DAVIS: The product that's being

1 manufactured is not subject to a patent because it's  
2 been modified because the machine wouldn't produce the  
3 patented cup without the adapters.

4 MR. JOHNSON: Basically, yes.

5 MR. DAVIS: In addition, let me say one other  
6 thing. The reason why Mr. Johnson brought that up is  
7 because yesterday, last night, he had a conversation  
8 with his patent attorney. And the patent attorney  
9 indicated that he felt in the interest of full  
10 disclosure that he should reveal that the product being  
11 manufactured by the CP-11 was not covered by the patent  
12 but that the CP-11 could manufacture the patented  
13 product with adapters.

14 Any other questions?

15 MR. GREEN: I have another one, Russell  
16 Green. I had a conversation earlier with Ms. Lopez  
17 about the monthly operating statements. I noticed from  
18 an examination of them for a period of several months  
19 they have scheduled inventory, I'll say \$62,000 in round  
20 numbers, which appears to have been inconsistent with  
21 verbal representations made by Ira Williams to me. And  
22 they were not made on the record, but I believe they  
23 need some clarification. Is there \$62,000 in inventory  
24 being sold today?

25 MR. JOHNSON: Jim Johnson,

1 debtor-in-possession. The way it worked and the reason  
2 I want to be very clear, it wasn't to be adverse, it was  
3 to let everybody know what you are really buying and the  
4 same for your question.

5 MR. GREEN: You're not responding to my  
6 question.

7 MR. DAVIS: Jim, the question is about the  
8 inventory.

9 MR. JOHNSON: Okay. Restate it, please.

10 MR. GREEN: Is the \$62,000 of inventory  
11 reported for the last three months on operating  
12 statements sworn to by the debtor-in-possession being  
13 sold today?

14 MR. JOHNSON: No, it's not being sold.

15 MR. GREEN: Does that mean those statements  
16 are false?

17 MR. JOHNSON: You're saying are they being  
18 sold today?

19 MR. GREEN: Yes.

20 MR. JOHNSON: I don't think we have a sale at  
21 \$62,000 today.

22 MR. DAVIS: Well, Jim, let me ask you this,  
23 the monthly operating reports represented that there's  
24 \$62,000 worth of inventory.

25 MR. JOHNSON: Right.



1 MR. DAVIS: Is there \$62,000 worth of  
2 inventory?

3 MR. JOHNSON: As of what day?

4 MR. DAVIS: As of the end of the month of  
5 February?

6 MR. GREEN: And January 31st and December  
7 31st.

8 MR. JOHNSON: Could I explain it, or do I  
9 have to answer yes or no?

10 MR. DAVIS: Well, I think the question is  
11 does the debtor own inventory?

12 MR. JOHNSON: No.

13 MR. DAVIS: Where does that number come from?

14 MR. JOHNSON: It's purchase orders or  
15 potential sales. We never owned inventory. We ship it  
16 the day we make it.

17 MR. DAVIS: Okay. So you characterize that  
18 on your monthly operating report as inventory, right?

19 MR. JOHNSON: Work in process.

20 MR. DAVIS: Work in process?

21 MR. JOHNSON: I guess it would be called work  
22 in process.

23 MR. DAVIS: Okay. And so today any work in  
24 process that you have is being sold?

25 MR. JOHNSON: Right, absolutely.

1 MR. GREEN: The number didn't change for  
2 three months. Is it different today?

3 MR. JOHNSON: I don't know. The number  
4 didn't change for three months?

5 MR. GREEN: You signed those statements,  
6 Mr. Johnson. Your signature appears on those  
7 statements.

8 MR. JOHNSON: I don't know.

9 MR. GREEN: Take a look at it.

10 MR. JOHNSON: I don't know to be honest with  
11 you.

12 MR. DAVIS: But the question is I think  
13 whatever work in process exists today, did you  
14 characterize on the monthly operating report that is  
15 being sold?

16 MR. JOHNSON: That is being sold, right.

17 MR. DAVIS: Okay. Are there any other  
18 questions?

19 Yes?

20 MR. ROSE: My name is Mark J. Rose. I  
21 represent Arlington Tool, Incorporated. Did the debtor  
22 ever prepare an itemization of the assets to be offered  
23 for sale of the individual lots?

24 MR. DAVIS: The debtor prepared itemization  
25 of certain assets that were sent around to interested

1 parties, the receivables level; the cash, although the  
2 cash isn't being sold; the receivables level; the cash,  
3 those were sent around.

4 MR. ROSE: Is there any machinery or  
5 equipment besides the CP-11 machine that's being offered  
6 for sale this afternoon?

7 MR. DAVIS: There is no other machinery or  
8 equipment that the debtor owns.

9 Yes?

10 MR. GREEN: Russell Green, again. Does that  
11 mean on the Compak Corporation list of assets to be sold  
12 that we can remove items D and H?

13 MR. DAVIS: Which are?

14 MR. GREEN: D is all rights as they exist in  
15 the CP-11; and H is all rights as they exist in the Case  
16 Packer equipment.

17 MR. DAVIS: Say that again.

18 MR. GREEN: You just said there's no  
19 equipment being sold, correct? So my question was does  
20 that mean we can remove from this list item D and item  
21 H?

22 MR. DAVIS: Well, first of all, it doesn't  
23 say that we are selling the machine. It says that we're  
24 selling all rights that we may have in the machine. So  
25 to the extent that we have a lease, to the extent that

1 we have that, we, the debtor, will sell their interest  
2 to whoever the buyer is.

3 MR. GREEN: Well --

4 MR. DAVIS: Whatever that interest is.

5 MR. GREEN: For the sake of clarity, I think  
6 we both know that the debtor has no rights whatsoever in  
7 the CP-11.

8 MR. DAVIS: Well, we cleared that up.

9 MR. GREEN: Right?

10 MR. DAVIS: That was the subject of an  
11 objection.

12 MR. GREEN: That was taken off the list  
13 altogether.

14 MR. DAVIS: So I think it's safe to say that  
15 you can withdraw I-D. That was the subject of the  
16 objection that we heard the last time we were before  
17 Judge Black.

18 MR. GREEN: You're saying theoretically there  
19 may still be some rights existing in the Case Packer  
20 equipment?

21 MR. DAVIS: That's correct, whatever rights  
22 the debtor has.

23 MR. GREEN: Are you in a position to tell us,  
24 or Mr. Johnson, to tell us what those rights are?

25 MR. DAVIS: Jim, is the Case Packer equipment

1 located in St. Charles, does the debtor own that  
2 equipment?

3 MR. JOHNSON: It was part of the original  
4 lease. It was part of the CP-11 and all the other  
5 equipment that came with it.

6 MR. DAVIS: Okay, is the debtor current -- so  
7 was that equipment leased?

8 MR. JOHNSON: It was part of the whole  
9 package. When they leased the CP-11, the Case Packer  
10 was part of it.

11 MR. DAVIS: So the equipment was leased?

12 MR. JOHNSON: Right.

13 MR. DAVIS: Okay. Is the debtor current on  
14 their lease payments?

15 MR. JOHNSON: No. The whole payment covered  
16 the Case Packer. We just never hooked it up.

17 MR. DAVIS: So that is part of the CP-11  
18 machinery?

19 MR. JOHNSON: Right.

20 MR. DAVIS: Or part of the CP-8 machinery?

21 MR. JOHNSON: CP-11.

22 MR. DAVIS: The CP-11 machinery, okay. So it  
23 would appear that the debtor doesn't have any right in  
24 that either. Thank you.

25 Any other questions? Yes?

1 MR. ROSE: Mark J. Rose on behalf of  
2 Arlington Tool, Incorporated. Other than the patent for  
3 the CP-11 machine is there any more intellectual  
4 property of any kind that is being offered for sale this  
5 afternoon?

6 MR. DAVIS: When you say the patent for the  
7 CP-11 machine --

8 MR. ROSE: Yes?

9 MR. DAVIS: The communion cup patent number  
10 5246106?

11 MR. ROSE: Yes.

12 MR. DAVIS: That is -- that would appear to  
13 be the only intellectual property that the debtor owns  
14 that is being offered for sale.

15 MR. ROSE: The debtor's name, telephone  
16 number?

17 MR. DAVIS: No. Well, again, it depends on  
18 the bids. You know, we also have a category here that  
19 says "any and all other identifiable assets." That  
20 would include name, phone number, anything else that the  
21 debtor owns. All of the assets means all of the assets.  
22 Now when you say "intellectual property" you mean name,  
23 trademarks, copyrights, et cetera, right?

24 MR. ROSE: Yes.

25 MR. DAVIS: Those are being sold and offered

1 today.

2 MR. ROSE: In the general category of other  
3 assets?

4 MR. DAVIS: That's right.

5 Mr. Green?

6 MR. GREEN: Just for clarity, I would have  
7 assumed that the licensing agreement was intellectual  
8 property. Is that not also --

9 MR. DAVIS: Well, I don't know --

10 MR. GREEN: I don't know whether it's a  
11 contract or --

12 MR. DAVIS: It's a contract.

13 MR. GREEN: Okay.

14 MR. DAVIS: Yeah. It's not intellectual  
15 property.

16 Are there any other questions?

17 (No response.)

18 MR. DAVIS: Okay. What I'd like to do is the  
19 way we're going to do this is we're going to conduct the  
20 auction for the sale of the assets in two parts. First  
21 of all, what I would like to do is solicit any bids for  
22 all of the assets. Then we will solicit bids for lots.  
23 We will then take a brief break during that time, at  
24 which time I would warn all bidders that they are not to  
25 engage in any collusive bargaining, and we will come

1 back in and at that point in time give an assessment and  
2 subsequent follow-up bids.

3 Mr. Green?

4 MR. GREEN: I have to say in prior  
5 discussions with you, you indicated to me you were going  
6 to do it the other way around, the individual bids  
7 first. Is there a reason why you're changing the format  
8 now?

9 MR. DAVIS: I could do it individual bids  
10 first. You know what? I will do it individual bids  
11 first. Okay? If you will turn, attached to the motion  
12 to sell there was an order authorizing bid procedure for  
13 sale of property. Exhibit A indicated list of assets to  
14 be sold at public sale. What we will do is we will go  
15 through each one of these assets on an individual basis.  
16 If you want to bid on that asset, please indicate your  
17 name and what the bid is. If there are no bids, we will  
18 move on to the next.

19 The first asset would be under Roman  
20 Numeral I, Compak Corporation, it would be, A, the name  
21 Compak Corporation. Are there any bids for the name  
22 Compak Corporation? Any bids for the name Compak  
23 Corporation?

24 Ira Williams?

25 MR. WILLIAMS: \$500.



1 MR. DAVIS: And what entity are you bidding  
2 for?

3 MR. WILLIAMS: Business Development Advisors.

4 MR. DAVIS: In addition, I need to let all  
5 the bidders know that the bids are subject to proof of  
6 the ability to close the bids as well as a 10-percent  
7 deposit. So we have one bid for the name Compak  
8 Corporation.

9 Are there any other bids for that?

10 MR. GREEN: Excuse me. Where did that  
11 10-percent deposit come from?

12 MR. DAVIS: I believe it's in the asset  
13 purchase agreement.

14 MR. GREEN: It's not in the order.

15 MR. DAVIS: The asset purchase agreement is  
16 attached to the order.

17 MR. GREEN: Nothing you've said or anywhere  
18 else was there had to be a deposit.

19 A MR. DAVIS: You know what, let's hold that  
20 issue until we get done with this, all right? And then  
21 we'll talk about it. B, Compak Corporation, I-B, Compak  
22 BVI equity securities and, by virtue of ownership of  
23 these equity securities, ownership of a 95-percent stake  
24 in Shanghai Health Products Company Limited. Are there  
25 any bidders on I-B? Any bidders on I-B?

1 MR. WILLIAMS: \$500.

2 MR. DAVIS: And you're bidding for?

3 MR. WILLIAMS: Business Development Advisors.

4 MR. DAVIS: Are there any other bids for I-B?

5 Compak Corporation I-C, furniture, fixtures and  
6 equipment, mostly office furniture. Are there any bids  
7 for furniture, fixtures and equipment?

8 MR. WILLIAMS: \$500, Business Development  
9 Advisors.

10 MR. DAVIS: \$500 for Business Development  
11 Advisors. Are there any other bids for I-C, furniture,  
12 fixtures and equipment?

13 Compak Corporation, I-D, all rights  
14 that may exist in the CP-11 machinery. That has been  
15 withdrawn by agreement pursuant to the objection of  
16 Klockner. It's not property of the estate.

17 Compak Corporation, I-E, accounts  
18 receivable. Are there any bids for accounts receivable?

19 MR. JONES: A thousand bucks.

20 MR. DAVIS: \$1,000? Who do you represent?

21 MR. JONES: Louis A. Holland.

22 MR. DAVIS: Louis A. Holland.

23 MR. WILLIAMS: According to the -- increase  
24 the bids.

25 MR. DAVIS: I'm sorry. Say that again.

1 MR. JONES: 10,000.

2 MR. WILLIAMS: \$11,000.

3 MR. DAVIS: \$11,000 on behalf of?

4 MR. WILLIAMS: Business Development Advisors.

5 MR. DAVIS: Are there any other bids for  
6 accounts receivable?

7 MR. JONES: How about 20?

8 MR. DAVIS: You have to bid in \$10,000  
9 increments.

10 MR. JONES: So what's that, 21?

11 MR. DAVIS: 21,000 from?

12 MR. JONES: Louis A. Holland.

13 MR. DAVIS: Louis A. Holland. Any other bids  
14 for accounts receivable? Any other bids for accounts  
15 receivable?

16 (No response.)

17 MR. DAVIS: Okay. Moving on to I-F, cash on  
18 hand, the cash on hand asset is being withdrawn.

19 Compak Corporation I-G, communion cup  
20 patent number 5246106. Are there any bids for communion  
21 cup patent number 5246106?

22 MR. WILLIAMS: \$500.

23 MR. DAVIS: From?

24 MR. WILLIAMS: Business Development Advisors.

25 MR. DAVIS: Any other bids for communion cup

1 patent 5246106?

2 MR. ROSE: Arlington Tool bids \$501.

3 MR. DAVIS: You have to bid in \$10,000  
4 increments.

5 Identify yourself.

6 MR. GRAMLICH: My name is Dean Gramlich. I'm  
7 counsel for Mr. Leoto, John Leoto, who is with me today.

8 MR. DAVIS: Okay.

9 MR. GRAMLICH: And he lifted his hand to make  
10 a bid prior to this gentleman making his bid.

11 MR. DAVIS: All right.

12 MR. GRAMLICH: I ask that he be permitted to  
13 enunciate the bid.

14 MR. DAVIS: Well, we have a bid on the floor.  
15 What I want to know is -- what I want to know is --

16 MR. ROSE: I will withdraw our bid.

17 MR. DAVIS: Withdraw the bid. Next bidder.  
18 There's a bid for \$500 for communion cup patent number  
19 5246106.

20 MR. GRAMLICH: \$10,500.

21 MR. DAVIS: Okay, we have a bid for 10,500.

22 MR. GRAMLICH: Gabriel, Inc.

23 MR. DAVIS: Gabriel, Inc. Any other bids for  
24 communion cup patent 5246106? Any other bids?

25 All right. Compak Corporation I-H has

1 been withdrawn.

2 Compak Corporation I-I print-ready art  
3 work and film for brochures and other marketing  
4 materials. Any bids?

5 MR. WILLIAMS: \$500, Business Development  
6 Advisors.

7 MR. DAVIS: \$500. Any other bids? Any other  
8 bids?

9 Okay. Compak Corporation I-J, contract  
10 rights, if any. Any bids for the contract rights, if  
11 any?

12 MR. WILLIAMS: \$500, Business Development  
13 Advisors.

14 MR. DAVIS: Business Development Advisors.  
15 Any other bids for contract rights?

16 Compak Corporation I-K, chose in action  
17 relating to Arlington Tool Company.

18 MR. ROSE: Arlington Tool bids one dollar.

19 MR. DAVIS: One dollar. Any other bids for  
20 I-K, chose in action?

21 MR. WILLIAMS: \$10,001.

22 MR. DAVIS: \$10,001. Any other bids for I-K?

23 Compak Corporation I-L, licensing  
24 agreement including Patpak, Inc. Any bids for licensing  
25 agreement including Patpak, Inc.?

1 MR. WILLIAMS: \$500, Business Development  
2 Advisors.

3 MR. DAVIS: Business Development Advisors  
4 bids \$500. Were there any other bids?

5 MR. GRAMLICH: On behalf of Gabriel  
6 Corporation, Dean Gramlich again. Could you disclose  
7 what licensing agreements are being referenced in  
8 connection with item I-L?

9 MR. DAVIS: Including Patpak, Inc.?

10 MR. GRAMLICH: Yes.

11 MR. DAVIS: Ms. Lopez?

12 MS. LOPEZ: I'm --

13 MR. DAVIS: She said she's getting it.

14 MR. ROSE: I have a question on behalf of  
15 Arlington Tools.

16 MR. DAVIS: Mr. Rose?

17 MR. ROSE: Does Mr. Johnson own any  
18 individual patents that the company is presently using?

19 MR. DAVIS: No. He doesn't own any  
20 individual patents that the company is presently using.

21 MR. ROSE: Is the company presently using any  
22 patents that are owned by others that are not the  
23 subject matter of this sale?

24 MR. DAVIS: No.

25 MR. GRAMLICH: Dean Gramlich on behalf of

1 Gabriel Corporation. There's a trust that evidently  
2 owns some patents that are involved in connection with  
3 the debtor's operations that I understand -- can  
4 Mr. Johnson confirm whether that's true or false?

5 MR. DAVIS: Well, the question was whether  
6 the debtor is using any patents owned by anybody else,  
7 for instance, that it doesn't have any rights to. I  
8 would assume that's what the question is, right?

9 MR. ROSE: Let me rephrase the question.

10 MR. DAVIS: Okay.

11 MR. ROSE: Is the debtor manufacturing any  
12 products at this time or at any time in the past based  
13 on its right to use a patent which is owned by someone  
14 other than the debtor?

15 MR. DAVIS: With or without any agreement to  
16 use it?

17 MR. ROSE: No, with an agreement.

18 MR. DAVIS: With an agreement. Okay, so the  
19 question is has the debtor ever used any other patent  
20 pursuant to an agreement that it's used to manufacture a  
21 product.

22 MR. JOHNSON: I don't know. I mean, not that  
23 I know of.

24 MR. DAVIS: Well, is it currently using any  
25 other patent to manufacture products pursuant to a

1 license agreement or an agreement of any kind?

2 MR. JOHNSON: No.

3 MR. DAVIS: Okay.

4 MR. ROSE: Has the debtor at any time  
5 manufactured any product with the use of a patent that  
6 it does not own?

7 MR. DAVIS: Has the debtor ever manufactured  
8 a product with a patent that it does not own? Well,  
9 that it doesn't have an agreement?

10 MR. ROSE: No, used pursuant to an agreement.

11 MR. DAVIS: Okay, but does it have to use it  
12 pursuant to an agreement?

13 MR. WEISSBERG: Either owns or has an  
14 agreement to use, Mark?

15 MR. ROSE: Yes.

16 MR. JOHNSON: Please restate the whole  
17 question once more.

18 MR. ROSE: Has the debtor ever manufactured  
19 any product pursuant to a patent which it does not own?

20 MR. JOHNSON: Possibly.

21 MR. ROSE: Could you please make a disclosure  
22 of the patents that the debtor has manufactured products  
23 with that -- where the debtor does not own that patent.

24 MR. JOHNSON: I guess what Mr. Davis said  
25 earlier, the fact that we're not using the patent and we



1 could possibly be using another patent. Do we have an  
2 agreement or something agreed upon? No, we do not.

3 MR. DAVIS: Is the debtor manufacturing any  
4 other products right now?

5 MR. JOHNSON: No, absolutely not.

6 MR. DAVIS: All right.

7 MR. JOHNSON: Absolutely not.

8 MR. DAVIS: Has the debtor ever manufactured  
9 any product?

10 MR. JOHNSON: No, absolutely not.

11 MR. DAVIS: Okay.

12 MR. Leoto: My name is Mr. Jim Leoto,  
13 Gabriel, Inc. It was just represented to me outside of  
14 this office by an employee of Mr. Johnson that the  
15 current patent which I just bid on, a, did cover a  
16 product on a current machine. If we went back to the  
17 original patent we could, in fact, manufacture that  
18 product.

19 Further, it was represented to me that  
20 Mr. Johnson has control over patents that exist in the  
21 Seretas trust of which is currently under license and  
22 manufacturing product, okay, specifically the communion  
23 cup under those licenses which were originated from  
24 Mr. Johnson, were transferred to the Seretas trust and  
25 of which he is a benefactor of.

1 MR. DAVIS: Well, first of all -- sit down.

2 MR. NEVEL: Ira Nevel. I was misquoted. He  
3 is making statements that I did not make.

4 MR. DAVIS: Ira, I did not speak to such a  
5 relationship. Just sit down. First of all, what we're  
6 doing right now is we're conducting an auction of the  
7 assets that the debtor owns, okay? We're not dealing  
8 with Mr. Johnson's assets. We're not dealing with  
9 anything that he owns. He has made the representation  
10 that whatever patents he owns are not currently being  
11 manufactured by the debtor. That's what the scope of  
12 this is. Anything else is really outside of the scope  
13 of the sale.

14 MR. Leoto: But the product that's in the  
15 scope of the sale which I just bid \$10,500 for --

16 MR. DAVIS: Right.

17 MR. Leoto: -- was represented to me by a  
18 current employee of Mr. Johnson's, okay, as being a  
19 patent that has manufacturable capacity.

20 MR. DAVIS: Yes.

21 MR. Leoto: Of making this communion cup.

22 MR. DAVIS: Well, we made that representation  
23 earlier. Mr. Johnson made that representation earlier.  
24 What he said was that the patent that's being sold is a  
25 manufacturable communion cup patent. Yes, absolutely.

1 That's absolutely true. He's made that representation  
2 and we cleared that up.

3 MR. Leoto: Fine, I'm comfortable.

4 MR. DAVIS: Okay. Thank you.

5 MR. ROSE: Mark J. Rose on behalf of  
6 Arlington Tool, Inc. I think in the interest of a full  
7 and complete disclosure Mr. Johnson ought to disclose if  
8 there are other patent rights or intellectual property  
9 rights that he owns, or he has an interest in, or any  
10 products that the debtor has manufactured at any time  
11 that have been manufactured pursuant to those patent  
12 rights. People at this auction are being asked to bid  
13 based on --

14 MR. DAVIS: Could I think about it for a  
15 second? Let me just think about that for a second  
16 because I think that there are a couple of different  
17 issues here, and I think we may have to take a brief  
18 recess in order to discuss them. So could we take a  
19 five-minute recess in order to discuss those?

20 MR. ROSE: Sure.

21 MR. GRAMLICH: Let's just, for the purposes  
22 of clarity, Dean Gramlich on behalf of Gabriel, just  
23 sort of put a bookmark as to where we are --

24 MR. DAVIS: That's fine.

25 MR. GRAMLICH: -- in the process. There was

1 a standing offer, I believe, for item number I-L  
2 licensing agreements, including Patpak. When we  
3 actually stopped the auction, you were offering that and  
4 I asked for disclosure with respect to the licensing  
5 agreements.

6 MR. DAVIS: That's correct.

7 MR. GRAMLICH: That's right where we are.

8 MR. DAVIS: That's correct. So we will  
9 resume. We'll take a five-minute recess.

10 (Brief recess.)

11 MR. DAVIS: Let's go back on the record. We  
12 left off at Compak Corporation I-L. Mr. Green, I think  
13 you want to make a comment first?

14 MR. GREEN: Yes. I want to make an  
15 objection, and that is having talked to a couple of  
16 other people who were involved here, the original  
17 contractual agreement contemplated \$10,000 increments on  
18 the sale of the entirety of the assets, not on these  
19 individual lots. And I want to make on the record a  
20 very plain objection. I think the \$10,000 increment on  
21 the individual lots is unreasonable, arbitrary and  
22 inappropriate.

23 MR. DAVIS: Thank you for that objection.

24 MR. JONES: Michael Jones on behalf of Louis  
25 A. Holland and Holland Capital Management. Based on

1 discussions with counsel for the debtors during the  
2 recess, we were informed that the communication that was  
3 sent to us earlier today was inaccurate. Compak  
4 Corporation apparently does not have \$48,000 in accounts  
5 receivable in and of itself.

6 MR. DAVIS: That was represented to you  
7 outside?

8 MR. JONES: I was told that Compak  
9 Corporation has certain accounts receivable and  
10 Communion Packaging has certain accounts receivable.

11 MR. DAVIS: That figure includes both the  
12 Compak and the Communion Packaging, and we will withdraw  
13 the individual lot bid for Communion Packaging.

14 MR. JONES: Okay. Thank you.

15 MR. DAVIS: Given that, are you still  
16 interested in bidding, or are you withdrawing your bid?

17 MR. JONES: We will leave our bid stand.

18 MR. DAVIS: Okay. That's fine.

19 MR. JONES: But that's all the cash on hand  
20 basically.

21 MR. DAVIS: Mr. Rose?

22 MR. ROSE: Yes. Mr. Davis, I am somewhat  
23 concerned over a number of events which have developed  
24 this afternoon in connection with this sale. I am  
25 disturbed over the fact that Mr. Weissberg, who

1 previously represented the stalking horse in this  
2 transaction, now is representing Mr. Johnson  
3 individually, and that Mr. Williams, who is an employee  
4 of Mr. Johnson, has been bidding on behalf of the  
5 corporation with respect to each of the assets of the  
6 debtor. There appears to be some question over whether  
7 there are additional patent rights or intellectual  
8 property rights pursuant to which the debtor may or may  
9 not have been manufacturing its products. And it seems  
10 to me that there may be an element, or at least there is  
11 an appearance of impropriety over what has happened  
12 here.

13 I don't know all of the facts at this  
14 time, but I think that there needs to be a full  
15 disclosure of these additional intellectual property  
16 rights. And I think that the creditors of this estate  
17 and the people that are bidding here today have a right  
18 to know whether Mr. Johnson has a financial interest in  
19 the company which has been bidding for these assets and  
20 whether the principals of Nationwide Trucklines have an  
21 interest in this company. I am concerned about this  
22 appearance of impropriety, and I think that the people  
23 here today and the creditors of this estate are entitled  
24 to a full disclosure.

25 MR. DAVIS: I would like to refer you to

1 Section 363(m) and (n) of the Code which indicates that  
2 the trustee or debtor-in-possession may void a sale  
3 under this section if the sale price was controlled by  
4 an agreement among potential bidders at such sale, or  
5 may recover from a party to such agreement any amount by  
6 which the value of the property sold exceeds the price  
7 of which such sale was consummated, et cetera, et  
8 cetera. Okay?

9 In addition, in Section 363(m), it says  
10 that reversal or modification on appeal of an  
11 authorization of the sale does not affect the validity  
12 of the sale to an entity that purchased or leased such  
13 property in good faith. Okay? There's a requirement or  
14 a duty on the part of the debtor that these sales take  
15 place in good faith. There's normally a representation  
16 in the sale order that indicates that the sale has taken  
17 place in good faith.

18 I think to the extent that Mr. Williams  
19 is bidding in an open auction with everyone else and  
20 everyone else knows what the bids are and there are no  
21 competing bids that he doesn't necessarily gain or lose  
22 by any inside information that he has. He is entitled  
23 to bid at an auction like this. So that's the issue as  
24 to Mr. Williams.

25 The debtor has represented that there

1 are no patents that they are currently using. The  
2 debtor has represented that there are no patents that  
3 they have used or manufactured within the past. I  
4 believe that given the fact that we're here and that we  
5 have bidders that what we should do is complete the  
6 bidding. There may be -- that may give rise to an  
7 objection to the bid on the grounds that it wasn't  
8 conducted in good faith or that it may -- but we don't  
9 know the answer to that because we haven't gotten to the  
10 end of the bid yet. That would be my suggestion.

11 Your objection is noted. You can  
12 certainly reserve your objection, and we're going to  
13 have a status date in front of Judge Black for the  
14 purpose of deciding whether the sale was done in good  
15 faith.

16 MR. ROSE: Well, I've just been handed copies  
17 of three patents from my colleague that are owned by  
18 Jimmie L. Johnson individually. Can you tell us with  
19 regard to the Klockner CP-11 machine the name of the  
20 entity which has entered into negotiations with the  
21 owner of that machine for the purchase of the machine?

22 MR. DAVIS: The individuals that bought the  
23 Klockner machine were represented by Gabriel earlier.

24 MR. WEISSBERG: McDermott.

25 MR DAVIS: McDermott, Will, and Emery.



1 MR. WEISSBERG: Although, if they want me to  
2 represent them, I would. The more the merrier.

3 MR. ROSE: Well, I know that you wouldn't  
4 have any hesitation about doing that, Ariel.

5 MR. WEISSBERG: Thank you.

6 MR. DAVIS: And they represented that they  
7 were the ones that bought the machine from --

8 MR. ROSE: All I'm saying is that I'm in  
9 possession of copies of three patents that are owned by  
10 Mr. Johnson individually. And on the basis of this  
11 information, it appears to me that these three patents  
12 may have been used at one time by the debtor to  
13 manufacture certain products that it has manufactured in  
14 the past or at the present time, and I feel that there  
15 is an appearance of impropriety here. I feel that there  
16 is an appearance of some form of collusion between the  
17 stalking horse and between Mr. Johnson, who is the  
18 president and the owner of the debtor's stock, and I  
19 want that objection noted for the record.

20 MR. DAVIS: The objection is noted for the  
21 record, you know, and as I've indicated, it may give  
22 rise to an objection to the entry of the sale order, to  
23 the finalization of the sale order. The debtor does not  
24 own those patents and we cannot sell them today. As to  
25 what Mr. Johnson does and doesn't own that's really not

1 the subject of this particular auction. This is an  
2 auction to sell the assets of the estate. That may be  
3 the subject of other proceedings, but it's not the  
4 subject today.

5 MR. ROSE: The creditors of this estate and  
6 the people and attorneys at this auction have a right to  
7 have this information disclosed and it has not been  
8 disclosed.

9 MR. DAVIS: Has it ever been asked for?

10 MR. ROSE: I asked for it 15 minutes ago.

11 MR. WEISSBERG: Well, 15 minutes ago, Mark.  
12 Where were you until 15 minutes ago?

13 MR. ROSE: It was a flat denial.

14 MR. DAVIS: Can you state your name for the  
15 record. Mr. Weissberg?

16 MR. WEISSBERG: Ariel Weissberg.

17 MR. ROSE: I asked the question at this  
18 auction 15 minutes ago to which there was a flat denial  
19 and now I have reason to believe that denial was not  
20 true.

21 MR. DAVIS: Mark, on behalf of the debtor, on  
22 behalf of the debtor the answer on behalf of the debtor  
23 is that the debtor is not using any other patents other  
24 than the ones that are represented in the sale. As to  
25 any other patents that may exist that is something that

1 has to be done -- it may give rise to an objection to  
2 the entry of the sale order. It may be the subject of  
3 individual litigation on behalf of the estate to pursue  
4 whoever it is that may have an interest in that. But  
5 those, you know, that's not within the parameters of  
6 what it is and your objection is noted. I think that  
7 you should take the objection before Judge Squires and  
8 before Judge Black.

9 MR. ROSE: Can we have a disclosure as to who  
10 the owners of the shares are of the bidder on behalf of  
11 whom Mr. Williams has been acting this afternoon?

12 MR. WILLIAMS: I would be more than happy to.  
13 It's Business Development Advisors, LLC, State of  
14 Illinois. 80-percent ownership, Ira Williams, II, which  
15 is myself; 20-percent ownership by Ira L. Williams, III,  
16 which is my son; and 10-percent ownership to my  
17 daughter, Ira J. Williams.

18 MR. DAVIS: That's 110 percent.

19 MR. WILLIAMS: 10, 10 percent.

20 MR. DAVIS: Oh, I thought you said 20. Okay,  
21 so it's 80, 10, 10?

22 MR. WILLIAMS: Correct. Any other questions,  
23 sir?

24 MR. ROSE: Not at this time.

25 MR. WEISSBERG: Does Mr. Williams -- I'm

1     sorry, Mr. Johnson have an ownership interest in that  
2     company?

3             MR. WILLIAMS: No, he does not.

4             MR. WEISSBERG: Have you agreed to give  
5     Mr. Johnson an ownership interest in that company?

6             MR. WILLIAMS: No, I have not.

7             MR. DAVIS: Okay. Let's move on with the  
8     auction. We're at I-L, licensing agreements.

9                     Are there any bids on licensing  
10    agreements?

11             MR. WILLIAMS: \$500.

12             MR. DAVIS: \$500 bid?

13             MR. WILLIAMS: Right.

14             MR. DAVIS: Business Development. Any other  
15    bids for the licensing agreements?

16             MR. KOKOSZKA: What are we bidding at? In  
17    increments of what?

18             MR. DAVIS: \$10,000.

19             MR. KOKOSZKA: And why is that?

20             MR. DAVIS: Because that's what was set in  
21    the asset purchase agreement and the bid order.

22             MR. JONES: How come the entry bid was not  
23    5,000 or 10,000?

24             MR. DAVIS: It didn't require the entry bid  
25    to be 10,000.

1 MR. JONES: Okay, so that's spelled out --

2 MR. DAVIS: There is no entry bid required.

3 MR. KOKOSZKA: Frank Kokoszka on behalf of  
4 ICI Worldwide. I believe Mr. Green earlier made an  
5 objection. I would join in on that objection that  
6 \$10,000 increment dealt with the entire lot. And it's  
7 not fair to the interest of creditors to hold a \$10,000  
8 increment on each separate -- if we can get, if somebody  
9 is willing to pay 6,000 or \$5,000 more, that's certainly  
10 in the best interest of creditors to allow such a bid.

11 MR. DAVIS: Give me a second.

12 Does anybody have the applicable  
13 paragraph?

14 MR. GREEN: The problem is the asset purchase  
15 agreement only pertains to a bulk sale. It did not have  
16 any contemplation of individual purchase lots.

17 MR. DAVIS: Paragraph number four in the bid  
18 order says, "Any subsequent bid to the initial bid by  
19 the purchaser shall be in increments of \$10,000."

20 MR. KOKOSZKA: Which obviously refers to the  
21 purchaser and the asset purchase agreement that it was a  
22 total sale of all the assets.

23 MR. DAVIS: Well, I think it's clear that it  
24 does refer to an asset, to a bid by all the assets,  
25 okay?

1 MR. KOKOSZKA: Yes.

2 MR. DAVIS: So the problem at this particular  
3 point in time is that we have gone through it. There  
4 are bids that are based on that representation, about  
5 \$10,000. We have several bids from parties who have  
6 left that bid on that basis. So their understanding of  
7 the bid procedures was that the increments would be at  
8 \$10,000, so the incremental bids must be in \$10,000  
9 because that's the way the auction was conducted.

10 MR. ROSE: I must object to that. I believe  
11 that if the bid procedure with respect to individual  
12 lots did not call for or did not require increases of  
13 \$10,000, then the bids that have taken place so far may  
14 not represent the highest and best offers that could  
15 have been obtained.

16 MR. DAVIS: By lowering the bid increment?

17 MR. ROSE: My client was deterred from  
18 increasing the amount of its bid because it required a  
19 \$10,000 increase. My client might have increased the  
20 amount of its bid had it not been required to increase  
21 its offer by \$10,000.

22 MR. DAVIS: Let's do this, okay, let's go  
23 back and start all over again without bid increments of  
24 \$10,000. And, please, let's do it quickly, okay,  
25 because we don't want to be here forever doing this. If

1 the bid that is solicited -- Mr. Green?

2 MR. GREEN: You're going to void the sale if  
3 you do that. You have a bidder who was the successful  
4 bidder of two lots who is gone.

5 MR. DAVIS: That's correct.

6 MR. GREEN: And they're going to scream  
7 bloody murder. And they are now deprived of the  
8 opportunity to bid. I don't happen to think their bulk  
9 sale bid is going to take this deal, but that doesn't  
10 change the fact that --

11 MR. DAVIS: Well, it's not going to take the  
12 deal if I don't get to the bulk bid, which it doesn't  
13 appear I'm going to get there right now.

14 MR. GREEN: You understand the problem  
15 though?

16 MR. DAVIS: I understand what the problem is.

17 MR. KOKOSZKA: Well, what about in the  
18 process of going forward then? I know we don't want to  
19 change the bids that have occurred, but for the rest of  
20 the assets being sold now --

21 MR. DAVIS: We will bid in less than \$10,000  
22 increments.

23 MR. KOKOSZKA: Thank you.

24 MR. ROSE: What does that do with regards to  
25 the assets --

1 MR. DAVIS: Which particular asset are you  
2 talking about?

3 MR. GREEN: Arlington Tools.

4 MR. ROSE: Well, the Arlington Tool chose in  
5 action for one.

6 MR. DAVIS: Who bid --

7 MR. WILLIAMS: I have 10,001. You can't go  
8 back.

9 MR. DAVIS: Is that still your bid, 10,001?

10 MR. WILLIAMS: We already closed on that.

11 MR. DAVIS: Just a minute. Is that still  
12 your bid on that cause of action? And you're not  
13 interested in lowering that bid?

14 MR. WILLIAMS: No.

15 MR. ROSE: Well, there are other assets as  
16 well.

17 MR. KOKOSZKA: There's a few assets that were  
18 500. I think those should be --

19 MR. WILLIAMS: No, just a moment. We have  
20 already closed on that. Everyone had an opportunity to  
21 bid.

22 MR. DAVIS: The bidding has not closed.  
23 We're going to take another round of bidding, so the  
24 bidding has not closed.

25 MR. WILLIAMS: On all of the lots?



1 MR. DAVIS: On all of the lots.

2 MR. WILLIAMS: Including the past?

3 MR. DAVIS: Including the past.

4 MR. WILLIAMS: And the individuals who left?

5 MR. DAVIS: They're not interested in bidding

6 any more. It was announced at the beginning. I

7 announced at the beginning there will be two rounds of

8 bidding. They've left. That's their bid. Okay?

9 Okay, Compak Corporation I-L, licensing

10 agreements, including Patpak. Are there any bids on

11 licensing agreements, including Patpak?

12 MR. WILLIAMS: I thought we were going back

13 to the beginning.

14 MR. DAVIS: Nope, we're not going back to the

15 beginning. We're beginning right here.

16 MR. WILLIAMS: Okay.

17 MR. DAVIS: Bids from this point forward will

18 not be in \$10,000 increments.

19 MR. WILLIAMS: \$500.

20 MR. DAVIS: Any other bids for Compak

21 Corporation licensing agreement?

22 MR. JOHNSON: 1,000, another 500.

23 MR. DAVIS: Any other bids for I-L?

24 MR. WILLIAMS: 1,500.

25 MR. DAVIS: Any other bids?

1 MR. JOHNSON: Make it 2,000.

2 MR. DAVIS: Any other bids?

3 MR. WILLIAMS: 2,500.

4 MR. DAVIS: 2,500. Any other bids for I-L?

5 MR. JONES: Yeah, I'll go to 3,000.

6 MR. DAVIS: Any other bids for I-L, licensing  
7 agreements, including Patpak?

8 MR. WILLIAMS: 3,100.

9 MR. JOHNSON: 3,200.

10 MR. WILLIAMS: 3,300.

11 MR. DAVIS: Any other bids, \$3,300?

12 MR. JONES: How about ten grand?

13 MR. DAVIS: We have a bid for \$10,000 made  
14 by?

15 MR. JONES: Mr. Holland.

16 MR. DAVIS: Mr. Holland for number I-L,  
17 licensing agreement. Any other bids besides 10,000?

18 Okay. Let's move on to I-M, all rights  
19 and options that Compak Corporation has in and through  
20 equipment leases. Any bids for I-M?

21 MR. WILLIAMS: 500.

22 MR. DAVIS: Any other bids for I-M? All  
23 rights and options Compak Corporation has in and through  
24 equipment leases.

25 Number I-N, any and all other

1 identifiable assets of Compak Corporation not included  
2 in the above list. Are there any bids on that?

3 MR. WILLIAMS: Excuse me. I didn't hear the  
4 first part.

5 MR. DAVIS: I-N, any and all other  
6 identifiable assets not included in the above.

7 MR. JONES: Michael Jones. A question.  
8 Would this include inventory?

9 MR. DAVIS: Yes.

10 MR. WILLIAMS: 500.

11 MR. DAVIS: Any other bids on I-N?

12 Okay. Let's move on to Communion  
13 Packaging Company. Roman Numeral II-A, the name  
14 Communion Packaging Company. Any bids on that?

15 MR. WILLIAMS: 500.

16 MR. DAVIS: Five, Business Development  
17 Associates. Any other bids, II-A?

18 II-B furniture, fixtures, and  
19 equipment. Any bids?

20 MR. WILLIAMS: 500.

21 MR. DAVIS: Any other bids than the \$500 bid  
22 from Business Development Associates?

23 MR. WILLIAMS: Business Development Advisors.

24 MR. DAVIS: I'm sorry, Business Development  
25 Advisors. Any other bid for II-B?

1 II-C is withdrawn.

2 II-D is withdrawn.

3 II-E, work in process. Any bids for  
4 Communion Packaging Company work in process?

5 MR. WILLIAMS: 500.

6 MR. DAVIS: Any other bids besides 500?

7 II-F, Communion Packaging Company  
8 inventory. Any bids?

9 MR. WILLIAMS: 500.

10 MR. DAVIS: Any bids for -- any other bids  
11 for II-F, inventory?

12 Any bids for II-G, print-ready art work  
13 and film?

14 MR. WILLIAMS: 500.

15 MR. DAVIS: Any other bids besides Business  
16 Development?

17 II-H, contract rights, if any.

18 MR. WILLIAMS: 500.

19 MR. DAVIS: Any other bids?

20 II-I, all rights and options that  
21 Community Packaging Company has in and through equipment  
22 leases.

23 MR. WILLIAMS: 500.

24 MR. DAVIS: Any other bids besides 500,  
25 Business Development?

1 II-J, any and all other identifiable  
2 assets.

3 MR. WILLIAMS: 500.

4 MR. DAVIS: Any other bids for that  
5 individual lot?

6 Okay. At this particular point in time  
7 we will take individual bids for all of the assets.

8 MS. McCLANDON: 75,000.

9 MR. DAVIS: And you are? Would you please  
10 state your name.

11 MS. McCLANDON: BMJ Partners.

12 MR. DAVIS: Are there any other bids for all  
13 of the assets?

14 MR. WILLIAMS: 85,000, Business Development  
15 Advisors.

16 MR. DAVIS: Any other bids?

17 MS. McCLANDON: 86,000, BMJ Partners.

18 MR. DAVIS: I'm sorry, what was that?

19 MS. McCLANDON: 86 -- I'm sorry, 96 -- I just  
20 took it back. 95,000.

21 MR. DAVIS: 95,000.

22 Any other bids for all of the assets?

23 MR. WILLIAMS: \$101,000 -- 105.

24 MR. DAVIS: Well, it can be more than 10,000.  
25 It has to be a minimum increment.

1 I'm sorry. The last bid was 95,000.

2 Business Development, the last bid was \$95,000.

3 MR. WILLIAMS: 105,000.

4 MR. DAVIS: 105,000.

5 MS. McCLANDON: 115, BMJ Partners.

6 MR. WILLIAMS: 125,000, Business Development

7 Advisors.

8 MR. DAVIS: 125 for Business Development.

9 MS. McCLANDON: 135, BMJ Partners.

10 MR. DAVIS: 135, BMJ.

11 MR. WILLIAMS: \$150,000.

12 MR. DAVIS: 150.

13 MS. McCLANDON: 160, BMJ Partners.

14 MR. DAVIS: 160 for BMJ is the highest bid at

15 this time. Any other bids?

16 MR. WILLIAMS: 170,000.

17 MR. DAVIS: 170,000.

18 MS. McCLANDON: 180, BMJ Partners.

19 MR. DAVIS: 180 from BMJ Partners. Any other

20 bids? Any other bids for all of the assets? The

21 highest bid at this point in time for all of the assets

22 is \$180,000.

23 Okay. Let's take a brief five-minute

24 recess.

25 (Brief recess.)

1 MR. DAVIS: Are you ready? Could I have your  
2 attention please? At this particular point in time the  
3 debtor has calculated the amount that has been bid for  
4 the individual lots. That amount is \$59,001. The total  
5 bid for all of the assets at this particular point in  
6 time bid by BMJ Partnership is \$180,000.

7 At this particular point in time are  
8 there any other bids requested or are there any other  
9 bids that any entity would like to bid on any of the  
10 individual assets on Exhibit A to the bid procedure  
11 order, either Compak Corporation I-A through N with the  
12 exception of withdrawals? Are there any other  
13 individual bids? Are there any other individual lot  
14 bids for any of the individual assets listed on Exhibit  
15 A for Communion Packaging Company, II-A, B, E, F, G, H,  
16 I, J with the exception of C and D which have been  
17 withdrawn?

18 Given that there is no further interest  
19 in any of the individual lot bids, the lot bidding at  
20 this point in time is now closed. Are there any other  
21 bids? The highest bid at this point in time for all of  
22 the assets is \$180,000 for BMJ. Are there any other  
23 bids for all of the assets? Are there any other bids  
24 for all of the assets for both Communion Packaging and  
25 Compak Corporation? The highest bid at this point in

1 time is BMJ Partners. Any other bids? If there are no  
2 other bids, the bidding on that will be closed at this  
3 point in time.

4 Now based on the procedure that we have  
5 gone through today and the willingness of BMJ Partners  
6 to purchase all of the assets of Communion Packaging and  
7 Compak Corporation for \$180,000, it would be the  
8 debtor's recommendation that the bid for \$180,000 by BMJ  
9 Partners should be accepted and recommended to the  
10 Judge. Mr. Green has indicated a willingness to put a  
11 10-percent deposit down at this particular point in time  
12 in the amount of \$18,000.

13 I would just like to say that I've had  
14 conversations with Mr. Rose, Mr. Green, and Mr. Jones  
15 about the procedure that has gone on here today. It  
16 appears that there is a need for some sort of further  
17 examination by the debtor and the estate of possible  
18 causes of action which may exist against various  
19 individuals. Those causes of action can be pursued by  
20 either creditors or by the debtor's attorney. Pursuant  
21 to the bid procedure order, if the successful bidder was  
22 Nationwide Trucking, the closing could not be conducted  
23 by myself. Because the successful bidder is BMJ  
24 Partners, we can conduct a closing.

25 How soon could BMJ Partners close on



1 this particular sale?

2 MR. GREEN: You've got to come up with more  
3 documentation than we do. How much time do you think  
4 you will need?

5 MR. DAVIS: Well, it was a typical list:  
6 recommendations, warranties, and so forth, 7 to 10 days,  
7 14 days.

8 MR. GREEN: Well, keeping in mind whatever  
9 the implications are of the March 31st deadline in  
10 trying --

11 MR. DAVIS: Right. So it would have to be --

12 MR. GREEN: Sooner rather than later.

13 MR. DAVIS: Right.

14 MR. GREEN: A week? Sometime next week?

15 MR. DAVIS: Sometime next week. Mark, do you  
16 have any questions of BMJ, or do you have any other  
17 comments that you'd like to make at this particular  
18 point in time?

19 MR. ROSE: No.

20 MR. DAVIS: Is it your plan to object to the  
21 granting of the sale order, do you think?

22 MR. ROSE: I haven't decided that yet. I  
23 think I want to reflect on that and discuss it with my  
24 client and counsel for all the unsecured creditors in  
25 this case.

1 MR. DAVIS: As I have indicated without any  
2 hesitation the estate retains causes of action for any  
3 elusive activity that went on that may result in a  
4 diminishment of return of assets to the estate.

5 Yes, Mr. Jones?

6 MR. JONES: Michael Jones on behalf of Louis  
7 A. Holland and Holland Capital Management. My client  
8 wants to stress that he supports the sale to BMJ  
9 Partners.

10 MR. DAVIS: Any other comments at this time?  
11 I have a proposed sale order that has certain findings  
12 of fact that I will circulate around to all the parties  
13 tomorrow morning. I'll make sure that it gets drafted  
14 and it gets circulated to all the parties for all the  
15 relevant parties' review so that you can edit it and  
16 make comments on it to the extent that it's appropriate.

17 (Which were all the proceedings  
18 had in the above-entitled sale  
as of March 19, 2003.)

19 I, Barbara A. Casey, do hereby  
20 certify that the foregoing is  
a true and accurate transcript  
of sale proceedings had in the  
above-entitled cause.  
21  
22  
23  
24  
25

# **Appendix Ex. 62**

EOD MAR 25 2003

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN RE:	)	
Compak Corp.	)	CASE NO. 02-22594
	)	CHAPTER 11
DEBTOR	)	JUDGE BLACK

---

In re:	)	
Communion Packaging Co.	)	CASE NO. 02-39188
	)	CHAPTER 11
DEBTOR.	)	JUDGE BLACK

---

**AGREED ORDER AUTHORIZING SALE OF BUSINESS PROPERTY**

This matter coming before this Honorable Court on the Debtors' MOTION TO SELL BUSINESS REAL AND PERSONAL PROPERTY AND TO SHORTEN NOTICE PERIOD, due notice being given and all things being considered

**THE PARTIES HEREBY STIPULATE TO THE FOLLOWING FACTS:**

1. A petition for relief under Chapter 11 of the U.S. Bankruptcy Code (the "Code") was filed on behalf of Compak Corp. ("Compak") on June 10, 2002, Case No. 02-22594, which was assigned to Judge Black. A Petition for relief under Chapter 11 of the Code was filed on behalf of Communion Packaging Co. ("CPC") on October 7, 2002, Case No. 02-39188, which was assigned to Judge Black. (Compak and CPC will hereinafter be referred to as the "Debtors").

2. ~~The Debtors are presently in possession, operating and managing its business.~~

3. Compak is an Oregon Corporation with its headquarters in Illinois which is the parent corporation for CPC, an Illinois corporation and wholly owned subsidiary of Compak. Compak is the holder of patent or programs which will generate income from its products, including the dual lid

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technology communion cup and the Remembrance Circle of Life Program. CPC is the licensee of the patent known as the communion cup which is a product used by religious groups to deliver communion in liturgical ceremonies. CPC, as the licensee of the Compak patent for the communion cup and as a wholly owned subsidiary of Compak, generates revenues for Compak through payment of license fees.

4. Since the commencement of this Bankruptcy Proceeding, and prior thereto, the Debtors have been providing information to interested parties about possible investment in or purchase of the assets of the Debtors.

5. The Internal Revenue Service (the "IRS") is the Debtor's largest secured creditor possessing a security interest in the assets of the Debtors in the amount of \$47,255.71 pursuant to a proof of claim filed in this proceeding.

6. The Debtors have received an offer to purchase substantially all of their business real and personal property, excluding bankruptcy causes of action and related claims and cash (hereinafter referred to as "Business Assets"), from Nationwide Truck Lines ("Nationwide") for the sum of \$750,000.00, which offer was reflected in an Asset Purchase Agreement (the "Agreement") by and between Debtor and Nationwide, as described in the Motion.

7. Written notice of the Motion, in the form filed herein, was transmitted to all required parties, including, without limitation, to all known potential bidders, all parties in interest and all of the Debtors' scheduled creditors. The notice of the Motion provided was adequate and sufficient under the circumstances of this chapter 11 case.

8. Prior to the hearing on the Motion, the bid reflected in the Agreement was withdrawn by Nationwide. Because other bidders had expressed interest in bidding on the assets of the

Debtors, an auction was held in open court for the purpose of soliciting additional bids pursuant to an Order entered by this court on February 25, 2003 defining the bid procedures (the "Order").

9. During the auction, bids were solicited by the Debtors pursuant to the procedures authorized in the Order, with bids taken for individual lots of the assets, and bids taken for all of the assets.

10. BMJ Partners ("BMJ") bid at the auction for all the assets of the Debtors in the amount of \$180,000 (the "Offer"). Other bids were solicited, and BMJ's bid was the highest and best bid with no other bidders offering to purchase all the assets for any greater amount.

11. It is in the best interest of the Debtors, their creditors and their bankruptcy estates that the Business Assets be sold to BMJ pursuant to the terms of the Agreement which formed the basis of the BMJ bid, free and clear of liens, claims, encumbrances and interests for the sum of \$180,000 (the "Transaction").

12. BMJ is a third-party purchaser unrelated to the Debtors. BMJ's principals are unrelated to the Debtors, their officers, directors and shareholders.

13. The terms of the Transaction are fair and reasonable under the circumstances of this chapter 11 case.

14. The Motion should be approved because it is in the best interests of the Debtors, its estate, its creditors and other parties in interest.

15. BMJ is entering into the Transaction in good faith and is a good-faith purchaser within the meaning of section 363(m) of the Bankruptcy Code, and is therefore entitled to the protection of that provision with respect to the Motion and this Order, and otherwise has proceeded in good faith in all respects in connection with the Transaction in that:

- a. BMJ recognized that the Debtors were free to deal with any other party interested in purchasing its assets;
- b. BMJ participated in an in-Court competitive bidding process;
- c. BMJ in no way induced or caused the chapter 11 filing of the Debtor; and
- d. BMJ has not violated section 363(n) of the Bankruptcy Code by any action or inaction.

16. BMJ's offer to purchase the Business Assets is the highest and best offer received for the Business Assets.

17. There was no objection raised to the approval of BMJ's Offer.

**BASED ON THE FOREGOING, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, EFFECTIVE IMMEDIATELY, AS FOLLOWS:**

- A. The Court has jurisdiction to hear and determine the Motion and enter this Order.
- B. This Order constitutes a final and appealable order within the meaning of 28 U.S.C. §158(a), that there is no just reason for delay of its enforcement and directs entry of judgment as set forth herein.
- C. This proceeding is a "core proceeding" pursuant to 28 U.S.C. § 157(b)(2)(a),(n) and (o).
- D. The statutory predicates for the Motion are sections 363 and 105 of the Bankruptcy Code, as complemented by the Federal Rules of Bankruptcy Procedure.
- E. The Motion is hereby authorized and approved in all respects except to the extent modified by this Order.
- F. The notice of the Motion provided complied with the various applicable

requirements of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the procedural due process requirements of the United States Constitution.

G. The Debtors are authorized to sell the Business Assets to BMJ pursuant to sections 363 and 105 of the Bankruptcy Code and on terms substantially comparable to those of the Asset Purchase Agreement attached hereto as Exhibit "A" (the "Agreement"). Such sale shall be free and clear of all liens, claims, encumbrances and interests, including rights of set off and recoupment, with any Liens against the Business Assets to attach to the net proceeds of sale in the same order of priority as such Liens possessed against the Business Assets.

H. The Debtors are authorized to pay all closing costs and taxes related to the sale of the Business Assets all without further Order of this Court.

I. The Debtors are authorized to perform such actions as may be necessary or required to sell and transfer the Business Assets to BMJ in accordance with this Order. In connection therewith, the Debtors are authorized to perform, consummate and implement the closing terms substantially comparable to those of the Agreement (as modified herein) and any other documents, instruments or agreements necessary or required to be executed in connection therewith, and to close the Transaction.

J. Upon the closing of the Transaction, the Business Assets shall be transferred and sold, and possession thereof delivered, to BMJ, free and clear of all liens, claims, encumbrances, and interests of any kind and nature, including rights of set off and recoupment.

H.<sup>2</sup> BMJ is not a successor to the Debtors or their estates by reason of any theory of law or equity and BMJ shall not assume or in any way be responsible for any liability or obligation of the Debtors and/or their estates except as specifically assumed by BMJ.



I<sup>2</sup> Effective on the date of entry of this Order, all entities, including, without limitation, the Debtors (and/or their successor, including any trustees thereof), creditors, employees, former employees and shareholders shall be permanently and forever barred, restrained and enjoined from commencing or continuing in any manner any action or other proceeding of any kind against BMJ either as alleged successor or with respect to any Liens against the Business Assets or arising out of the Transaction.

J<sup>2</sup> The terms and provisions of this Order shall be binding upon the Debtors, any trustees thereof, their respective estates and creditors, the Debtors' shareholders, all entities and third parties, and their respective successors and assigns.

K. Upon closing, all funds shall be deposited in the *Michael J. Davis Client Trust* ~~Debtors in Possession~~ account of Compak and said funds shall be frozen pending further Order of this Court

L. If any person or entity which has filed statements or other documents or agreements evidencing Liens on, or interests in, the Business Assets, shall not have delivered to the Debtors prior to or contemporaneously with the Closing termination statements and other instruments of release, the Debtors and/or BMJ is hereby authorized to execute and file such termination statements and other instruments of release on behalf of such person or entity with respect to the Business Assets.

M. Upon closing all Business Assets which are in the possession and control of the Debtors shall be delivered by the Debtors to BMJ, except as excluded by the Agreement. Any and all other Business Assets in the possession or control of any other person or entity, excluding the Debtors but including, without limitation, any current or former vendor, supplier or employee of the Debtors are transferred to BMJ free and clear of Liens; and, such vendors, suppliers,

employees, persons, or entities shall immediately deliver and relinquish possession and control of such Business Assets to BMJ.

N. The ten day stay of this Order provided by Rule 6004(g) and 6006(d) shall not apply.

O. No bulk sales law or any similar law of any state or other jurisdiction shall apply in any way to the Transaction.

P. Any net cash proceeds derived from the sale of the Business Assets, shall be deposited by the Debtors into the Compak Debtor in Possession Bank Account.

Dated this 24<sup>th</sup> of March, 2003

ENTERED:

  
Bankruptcy Judge

Michael Davis  
Davis & Hands  
1301 W. 22nd St., St. 603  
Oak Brook, Ill. 60523  
630-574-0123

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ASSET PURCHASE AGREEMENT

THIS AGREEMENT is made in duplicate on this 9TH day of FEBRUARY, 2003, by and among Compak Corporation, an Oregon Corporation ("Compak"), Communion Packaging Company, an Illinois corporation ("Communion"), both located at 980 North Michigan Ave. Suite 1400, Chicago, Illinois 60611, (Compak and Communion shall be referred to collectively as "Sellers"; and NATIONWIDE TRUCK LINES INC, Chicago, Illinois herein after referred to as "Purchaser".

1. Assets to be Sold by Compak. On the terms and subject to the conditions herein set forth, at the Closing, Compak shall sell, assign, transfer and convey to Purchaser, and Purchaser shall purchase and acquire the following assets (the "Compak Assets"): (a) all of the issued and outstanding common capital stock and equity securities that Compak owns in Compak BVI ("Compak BVI Stock"); (b) the name "Compak Corporation"; (c) the patent and all Intellectual property rights in the Communion Cup patent number 5246106 dated September 21, 1994 (the "Patent"); (d) all forms, office supplies, catalogs and warehouse and other supplies located at the facility or in any other location; (e) all prepaid expenses and deposits reflected as assets if such assets are of continuing benefit to the Purchaser after the Closing Date; (f) all books, records, computer tapes and discs, computer software, files and other papers and documents of Compak located at the facility or any other location, including without limitation all price lists, sales records, sales correspondence, ledgers, journals, statements, bills, invoices, customer and supplier lists, files and records, data processing records and payroll and employment records; (g) all of Compak's right, title and interest in and under all Leases, Contracts and Permits, which are being assigned to and assumed by Purchaser, and all unfilled customer orders and unfilled purchase orders

2. Assets to be Sold by Communion.

2.1. On the terms and subject to the conditions herein set forth, at the Closing, Communion shall sell, assign, transfer and convey to Purchaser, and Purchaser shall purchase and acquire the following assets ("Communion Assets"):

(a) All of the properties, assets and choses in action, rights, accounts receivable as of the Closing Date, licenses, permits, franchises and interests of every kind and description, real, personal and mixed, tangible and intangible, wherever located, then owned, in whole or in part, by Communion, and all of Communion's business as a going concern, together with any goodwill associated therewith, located at Chicago, Illinois or Franklin Park, Illinois (the "OLMARC facility") or any other location where Communion has assets located. Without limiting the generality of the foregoing, the Communion Assets shall include the following:

(i) All inventories of every kind and character, located at the facility or any other location (herein called collectively "Inventory"); (ii) All fixed assets located at the

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facility, including, without limitation, all machinery and equipment, accessories, attachments and parts therefore; (iii) All forms, office supplies, catalogs and warehouse and other supplies located at the facility or in any other location; (iv) All prepaid expenses and deposits reflected as assets if such assets are of continuing benefit to the Purchaser after the Closing Date; (v) All books, records, computer tapes and discs, computer software, files and other papers and documents of Communion located at the facility or any other location, including without limitation all price lists, sales records, sales correspondence, ledgers, journals, statements, bills, invoices, customer and supplier lists, files and records, data processing records and payroll and employment records; (vi) All of Communion's right, title and interest in and under all Leases, Contracts and Permits, which are being assigned to and assumed by Purchaser, and all unfilled customer orders and unfilled purchase orders; (vii) All real estate now owned by Communion; (viii) All other assets, properties and rights specifically set forth in this Agreement as being sold, transferred or assigned to, or purchased by, Purchaser; and, (ix) the name "Communion Packaging Company."

3 Excluded Liabilities. Hereinafter, the Communion Assets and the Compak Assets shall be collectively referred to as the "Sale Assets." This Agreement is only for the sale, assignment, transfer and delivery of the Sale Assets, as described above. Consequently, the parties agree that nothing contained herein shall be construed as an assumption by Purchaser of any of Sellers' debts, obligations, or liabilities. All such liabilities which have arisen or have been incurred prior to the Closing Date shall remain the obligation of Sellers whether or not such liabilities are reported, contingent, or otherwise, or whether Purchaser and/or Sellers have actual notice of such liabilities prior to the Closing Date.

4. Purchase Price. Purchaser agrees to purchase the Sale Assets for the sum of seven hundred fifty thousand (\$750,000.00) Dollars as follows ("Purchase Price"):

4.1 Earnest Money. Seventy Five Thousand and No/100 (\$75,000.00) Dollars to be paid on February 28th, 2003. The earnest money shall be held in escrow by EDWARD BERMAN, P.C. ("Escrowee") for the mutual benefit of the parties and shall be disbursed according to the terms of this Agreement. In the event either party submits a written request to Escrowee for disbursement of the escrowed funds other than for purposes of Closing, Escrowee shall provide a five-day written notice to the other party of the proposed distribution, at the party's address shown on this Agreement or such other address last provided to Escrowee. In the event such other party fails to object in writing to the proposed distribution within five (5) days of mailing of the notice, Escrowee shall disburse the escrowed funds accordingly; otherwise the funds shall continue to be held in escrow pending joint direction of the parties or an order of court of competent jurisdiction.

4.2 Balance. The balance of the Purchase Price to be paid at Closing in cash to Purchaser in the amount of \$675,000.00.

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4.3 Purchase Price Allocation. The Purchase Price shall be allocated as follows: (a) \$650,000.00 of the Purchase Price shall be allocated to the Compak Assets; and, (b) \$100,000.00 of the Purchase Price shall be allocated to the Communion Assets. Notwithstanding the foregoing, the Purchase Price shall be paid at Closing to Compak.

#### 5. Representations.

5.1 Seller Representations. In order to induce Purchaser to enter into this Agreement, the Sellers covenant, warrant and represent, as the case may be, to the Purchaser that to the best of Sellers' knowledge:

- (a) That Sellers have good and merchantable title to the Sale Assets subject to liens and encumbrances which shall be released at Closing; and further represent and warrant that there are no complaints pending against Sellers pertaining to the Sale Assets that cannot be resolved by the entry of a final and nonappealable order of the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division, approving the transactions contemplated in this agreement ("Bankruptcy Court Order");
- (b) Sellers have no action, proceeding, or investigation pending or threatened against Sellers before any court or any governmental department, commissions, board, agency or instrumentality other than that involved in Bankruptcy case nos. 02-B-22594 and 02-B-39188 filed in the Northern District of Illinois, Eastern Division (the "Case") or have reasonable grounds to know any basis for any action, proceeding or investigation resulting in any order, injunction, or decree against Seller other than that mentioned herein;
- (c) Sellers have complied with all laws, rules and regulations relating to the business and the Sale Assets;
- (d) Sellers will use their best efforts to acquire approval from the Bankruptcy court for the sale of the Sale Assets free and clear of all liens, claims and encumbrances, including the entry of the Bankruptcy Court Order, and Sellers owe no obligations and have ~~contracted no liabilities affecting Sellers' business which might~~ affect the consummation of the purchase price and sale described in this Agreement other than those involved in the Case for which Sellers will use their best efforts to receive Bankruptcy Court approval for the sale free and clear of all liens, claims and encumbrances nor will such purchase and sale conflict or violate any agreement or law to which Sellers or said businesses are subject.

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(e) Sellers have paid in full or will arrange for such payment of all taxes of Sellers which may arise or result from this Agreement and will use their best efforts to obtain the Bankruptcy Court Order.

(f) Subject to approval by the Bankruptcy Court, the party signing this Agreement on behalf of the Sellers has full right, title and authority to execute this Agreement and all other documents of conveyance contemplated hereunder and is empowered to perform all acts contemplated hereunder.

(g) Between the date of the execution of this Agreement and the Closing, Sellers shall maintain the inventory at normal and customary levels.

(h) The Sellers shall continue their normal operations through the Date of Closing.

(i) The Sellers shall make their best efforts to retain all customers and represent to all inquiring parties that the assets of the Sellers are being sold as on-going entities;

(j) The Sellers shall make their best efforts to retain all employees necessary to operate the businesses of the Sellers.

5.2. Purchaser Representations. Purchaser represents and warrants that:

(a) Purchaser has no action, proceeding, or investigation pending or threatened against Purchaser before any court or any governmental department, commissions, board, agency or instrumentality, nor does Purchaser know, or have reasonable grounds to know, any basis for any action, proceeding or investigation resulting in any order, injunction, or decree against Purchaser.

(b) Purchaser has complied with all laws, rules and regulations relating to the transactions contemplated by this Agreement.

(c) Purchaser has full right, title and authority to execute this Agreement and all other documents of conveyance contemplated hereunder and is empowered to perform all acts contemplated hereunder.

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(d) Purchaser shall use its best efforts to cause the transactions contemplated by this Agreement to be consummated.

6. Closing. Closing of the transaction contemplated herein shall take place ten days after entry of the Bankruptcy Court Order in the Case (i.e., 10 days after the order becomes final and non-appealable) or at such earlier date as full compliance as set forth in Paragraph 16 herein is completed; but in any case, no earlier than March 20, 2003 and no later than March 31, 2003. At the Closing of this transaction, Purchaser shall pay Compak as provided for in Paragraph 4, and Sellers shall deliver to Purchaser its Bills of Sale, Assignment of Patent, Assignments of Name, Certificate for the Compak BVI Stock and all other documents necessary to effectuate the transfer of title to the property being sold herein to be free and clear of any claims, liens, or encumbrances.

7. Risk of Loss.

Prior to Closing, the Sellers assume all risk of loss, damage, or destruction to the Sale Assets being purchased herein by Purchaser. In the event of any such loss prior to Closing which substantially impairs the value of Sellers' business, Purchaser shall have the right to terminate this Agreement or to close and receive an assignment of the applicable insurance proceeds.

8. Assignment.

This Agreement and any interest therein may be assigned by Purchaser without the written consent of the Sellers.

9. Closing Documents.

9.1 Sellers' Closing Documents.

At the time of Closing, Sellers shall deliver to Purchaser the following documents:

- (a) ~~Certified Copies of Resolutions~~ duly adopted by the directors of Communion and Compak authorizing the execution and delivery of this Agreement with Purchaser and the consummation thereof;
- (b) A Certificate of Good Standing dated no more than thirty (30) days prior to the closing from the Secretary of State in which Communion and Compak are incorporated or organized showing that Communion and Compak are in good standing;



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(c) All records of account and such other data and documents in Sellers' possession and control as may be necessary for or helpful to Purchaser to continue the operation and maintenance of the businesses of Compak and Communion;

(d) Bills of Sale transferring title to the Sale Assets;

(e) Assignment of Patent transferring title in the Patent to Purchaser;

(f) Assignments of Name transferring title in the name "Compak Corporation" and "Communion Packaging Company" to Purchaser; and,

(g) Such other documents or instruments as may be reasonably necessary to effectuate the transactions provided for in this Agreement.

**9.2 Purchaser's Closing Documents** At Closing, Purchaser will deliver the following documents and payments to Sellers:

(a) Payment to Compak of all of the funds due to be paid as described in Paragraph 4 of this Agreement.

(b) Any other documents reasonably requested by Sellers to effectuate these transaction.

**10. Access.** Upon the signing of this Agreement, Sellers agree to allow Purchaser or its representatives full access to all books, and records, of Sellers and to fully explain and answer any questions which may arise from the inspection. Sellers and Purchaser, individually, agree that all information provided is strictly confidential and will not divulge its contents to any person or entity not a party to this Agreement or use the information to its benefit prior to the Closing or in the event this transaction fails to close.

**11. Binding.**

This Agreement shall be binding on and shall inure to the benefit of the ~~executors, administrators, successors, and assigns of the parties hereto;~~ nothing contained in this paragraph shall be construed as a consent to any assignment of this Agreement by Sellers or Purchaser except as provided in Paragraph 8 of this Agreement.

**12. Survival.**

The representations, warranties and covenants of the parties hereto and their respective successors and/or assigns shall survive the Closing.



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**13. Notices.** All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed to have been duly given (i) upon delivery when delivered personally; (ii) three (3) business days after being deposited in the United States mail, registered or certified mail, return receipt requested; or (iii) one (1) business day after being dispatched by a nationally recognized overnight courier service, to the parties at the addresses as set forth below or at such other addresses as may be furnished in writing:

If intended for Sellers:

Michael J. Davis

Davis & Hands

1301 W. 22<sup>nd</sup> St., Ste. 603

Oak Brook, Illinois 60523

If intended for Purchaser:

Ariel Weissberg

401 South LaSalle, Suite 403

Chicago, Illinois 60605

**14. Entire Agreement.**

This Agreement constitutes the sole and only Agreement between Sellers and Purchaser respecting the sale and purchase of the Sale Assets and correctly sets forth the obligations of Sellers and Purchaser to each other as of this date. Any Agreements or representations respecting said business or its sale to Purchaser not expressly set forth in this Agreement are null and void.

No amendments or variation of the terms and conditions of this Agreement shall be valid or enforceable unless made in writing and signed by Purchaser and Sellers.

**15. Supplemental Exhibits.** Seller may, from time to time prior to or at the Closing, by notice in accordance with Paragraph 13, supplement or amend any Exhibit, including, without limitation, one or more supplements or amendments to correct any matter which

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would constitute a breach of any representation, warranty or covenant herein contained. No such supplemental or amended Exhibit shall be deemed to cure any breach of such representation, warranty or covenant for purposes of Paragraph 17 hereof. If, however, the Closing occurs, any such supplement or amendment of any Exhibit will be effective to cure and correct for all purposes any breach of any representation, warranty or covenant which would have existed by reason of Sellers not having made such supplement or amendment.

#### 16. Conditions Precedent.

16.1 Purchaser's Performance. The performance of the obligations of Purchaser are subject, at the election of Purchaser, to these conditions precedent:

- (a) At Closing, the title of Sellers to the Sale Assets will be good and marketable and be free and clear of all liens, claims, and encumbrances.
- (b) Each of the representations and warranties of Sellers in this Agreement or in any certificate or document delivered under its provisions, or in connection with these transactions, shall be true on and as of Closing, as though such representations and warranties were made on and as of Closing, except for such changes contemplated or permitted by this Agreement.
- (c) Sellers shall have performed and complied with all covenants, agreements and obligations required by this Agreement to be performed or complied with by it before or at Closing, including the delivery of all documents and instruments in the form required by Paragraph 5.
- (d) Sellers shall have secured necessary approval of the transactions contemplated by this Agreement from the United States Bankruptcy Court in connection with the pending bankruptcy of Sellers, including the Bankruptcy Court Order.

15.2 Sellers' Performance. The performance of the obligations of Sellers is subject, at the election of Sellers, to these conditions precedent:

- (a) Each of the representations and warranties of Purchaser in this Agreement, or in any certificate or

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document delivered under its provisions, or in connection with these transactions shall be true in all material respects on and as of Closing, as though such representations and warranty was made on and as of Closing, except for such changes contemplated or permitted by this Agreement.

(b) Purchaser shall have performed and complied in all material respects with all covenants, agreements and obligations required by this Agreement to be performed or complied with by it before or at Closing, including the delivery of all payments, documents and instruments in the form required by Paragraph 5.

(c) Purchaser shall have delivered to Sellers, all of the funds due to be paid as described in Paragraph 4 of this Agreement.

(d) Sellers shall have secured necessary approval of the transactions contemplated by this Agreement from the United States Bankruptcy Court in connection with the pending bankruptcy of Sellers', including the entry of the Bankruptcy Court Order.

16. Construction; Severability. This Agreement is being delivered and is intended to be performed in the State of Illinois and shall be construed and enforced in accordance with the laws of the State of Illinois. The language used in this Agreement will be deemed to be the language chosen by the parties hereto to express their mutual intent and no rule of strict construction will be applied against any party hereto. In the event that any provision of this Agreement is found to be unenforceable, invalid or illegal, the remainder of this Agreement shall continue in full force and effect as if such enforceable, invalid or illegal provision were not a part of this agreement.

#### 17. Termination.

17.1 Permitted Termination. This Agreement may, by notice given prior to or at the Closing, be terminated only under the following circumstances (each, a "Permitted Termination"):

(a) By either Purchaser or Sellers if a material breach of any provision of this Agreement has been committed by the other party and such breach has not been waived;

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(b) By Purchaser, if any of the conditions in Paragraph 15.1 have not been satisfied on or before the Closing Date, or if satisfaction of any such condition is or becomes impossible (other than through the failure of Purchaser to comply with its obligations under this Agreement) and Purchaser has not waived such condition on or before such date;

(c) By Seller, if any of the conditions in Paragraph 15.2 have not been satisfied on or before the Closing Date or if satisfaction of any such condition is or becomes impossible (other than through the failure of Sellers to comply with its obligations under this Agreement) and Sellers have not waived such condition on or before such date; or

17.2 By mutual consent of Purchaser and Sellers, if any entity or combination of entities other than Purchaser bids \$50,000 more than the amount Purchaser has offered to pay in this Agreement and Purchaser does not wish to exercise its rights under Paragraph 17.3.

17.3 Result of Termination. Each party's right of termination under Paragraphs 17.1 and 17.2 is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. If this Agreement is terminated pursuant to Paragraphs 17.1 and 17.2 except as set forth below, all further obligations of the parties under this Agreement will terminate except that Sellers will pay to Purchaser a breakup fee of ~~expenses attributable to the preparation and execution of their bid~~ in an amount of no less \$27,000.00 if this agreement is terminated pursuant to Paragraph 17.1.4. In the event Purchaser is the terminating party because of Sellers' breach, the earnest money shall be returned to Purchaser.

17.4 Overbid. In the event that Purchaser does not purchase the Sale Assets under this Agreement as a result of an "overbid" received by Sellers in connection with the bankruptcy proceedings, the earnest money shall be returned to Purchaser. The parties agree that, in the event that an "overbid" is received which, in the determination of the Bankruptcy court responsible for Sellers' bankruptcy, is superior to the price being paid by ~~Purchaser by more than \$50,000~~ the Purchaser shall, at its discretion, have the right to match or exceed such "overbid" and, at its discretion, to purchase the Sale Assets under this Agreement at such purchase price subsequently offered by Purchaser and approved by the Bankruptcy Court.

18. As Is. Purchaser accepts the Sale Assets in all respect in "AS IS" condition as of the date of this Agreement, *except as indicated herein.*

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19. Waiver. The waiver by either party of a breach or violation of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of such provision or any other provision of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Agreement on the day and year first written above.

COMPAK CORPORATION

By: 

Its: John Johnson Chairman/CEO

COMMUNION PACKAGING CORPORATION

By: 

Its: [illegible]

NATIONWIDE TRUCK LINES, INC.

By: 

Its: President

# **Appendix Ex. 66**

**BILL OF SALE**  
**ASSETS OF COMMUNION PACKAGING COMPANY**

Communion Packaging Company, an Illinois corporation (the "Seller"), for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby sell, assign, transfer and set over to BMJ Partners., an Illinois corporation (the "Purchaser"), and its successors and assigns, all of Seller's right, title and interest in and to all of the personal property of the Seller, tangible and intangible, wherever located, including without limitation all of Seller's business as a going concern, goodwill, choses in action, accounts receivable, licenses, franchises, the assets indicated on the Schedules and Statement of Financial Affairs filed in Bankruptcy case #02-39188 in the Northern District of Illinois, Eastern Division inventory, fixtures, machinery, equipment, accessories, attachments, parts, forms, office supplies, catalogs, warehouse and other supplies, prepaid expenses, deposits, refunds, books, records, computer tapes and disks, computer software, files and other papers and documents, unfilled customer orders, unfilled purchase orders, trademarks, trade names, service marks, registrations, patents, insurance policies (including proceeds thereof), the phone numbers 312-902-1221, 866-272-7265, the website [www.CommunionPackaging.com](http://www.CommunionPackaging.com), and all other personal property and personal property rights specifically set forth in that certain Order (the "Order") dated March 24, 2003 by and between Purchaser and Seller; except that the following personal property of the Seller shall be excluded from the Purchased Assets: all records having exclusively to do with the corporate organization of Seller, tax records, records maintained by Seller's accountants and attorneys, records related to assets excluded from the Purchased Assets, records related to any liability of Seller, other formal corporate records, Seller's rights under the Asset Purchase Agreement, tax records, tax returns, related work papers relating to Seller's business prior to today, collective bargaining agreements, personnel policies (including vacation time, holiday pay, tuition reimbursement, bonus programs and sick leave), material fringe benefits, medical, life or disability benefits, excess benefit plans, bonus or incentive plans, deferred compensation plans, change-of-control agreements, other employee benefit plans, policies, programs, arrangements, agreements or contracts (whether or not written or terminated), cash, cash equivalents, cash investments, marketable securities, bank deposits, avoidance actions, claims, and rights of recovery available to debtors under 28 U.S.C., Title 11.

EXCEPT AS PROVIDED IN THE ASSET PURCHASE AGREEMENT, ASSIGNEE MAKES NO REPRESENTATION, WARRANTY, COVENANT OR UNDERTAKING, EXPRESS OR IMPLIED, WITH RESPECT TO THE EXISTENCE OF ANY SPECIFIC ITEMS CONSTITUTING THE PURCHASED ASSETS OR THE QUANTITY THEREOF, ~~OR THE CONDITION, QUALITY, MERCHANTABILITY (IN THE SENSE OF A UCC WARRANTY),~~ FITNESS FOR A PARTICULAR PURPOSE OR VALUE OF THE PURCHASED ASSETS, AND THE PURCHASED ASSETS ARE SOLD WITHOUT RECOURSE ON AN ABSOLUTE "AS IS, WHERE IS" BASIS.

On or after the date hereof, the Seller will, at the Purchaser's sole expense, from time to time, at the Purchaser's reasonable request, execute and deliver such further instruments and take or cause to be taken such other action to carry out the effect, intent

and purpose of the sale, assignment and transfer to the Purchaser hereunder.

Dated this \_\_\_\_\_ day of March, 2003

Compak Corporation

By: 

Its: Chairman

685927\_2 (12/12/01)



**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

In re:	)	
	)	
COMPAK CORPORATION,	)	Case No. 02 B 22594
	)	Honorable Bruce W. Black
Debtor.	)	Chapter 7
	)	
COMMUNION PACKAGING	)	Case No. 02 B 39188
COMPANY, an Illinois corporation,	)	Chapter 7
	)	Honorable Bruce W. Black
Debtor.	)	
	)	(Jointly Administered)
	)	
THE COMPAK COMPANIES, LLC,	)	
	)	
Plaintiff,	)	Adv. No. 04 A 04028
	)	
v.	)	
	)	
JIMMIE L. JOHNSON, RON BOWEN,	)	
BRUCE CARLSON, PATPAK, INC.,	)	
DUOTECH HOLDINGS, INC.,	)	
DUOTECH PACKAGING, LLC, AND	)	
OLMARC PACKAGING COMPANY,	)	
	)	
Defendants.	)	

**NOTICE OF FILING**

To: Attached Service List

Please take notice that on **July 24, 2008**, the undersigned filed with the United States Bankruptcy Court for the Northern District of Illinois, 219 S. Dearborn Street, Chicago, Illinois, the **JOINDER OF TRUSTEES TO OBJECTIONS TO THE PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW PURSUANT TO BANKRUPTCY RULE 9033 AND LOCAL RULE 9033-1**, a copy of which is attached hereto.

/s/  
Joseph A. Baldi

**Certificate Of Service**

I, Joseph A. Baldi, hereby certify that I caused a true and correct copy of the foregoing Notice of Filing and the document identified therein to be served on the persons on the attached service list by electronic mail, or facsimile transmission on July 24, 2008.

/s/

Joseph A. Baldi

**SERVICE LIST**  
***The Compak Companies, LLC v. Johnson et al***  
**04 A 04028**

David P. Leibowitz  
Leibowitz Law Center  
420 West Clayton Street  
Waukegan, IL 60085-4216  
***Via e-mail and facsimile***

Office of the United States Trustee  
227 West Monroe Street  
Suite 3350  
Chicago, IL 60603  
USTPRegion11.ES.ECF@usdoj.gov

Ariel Weissberg, Esq.  
Weissberg and Associates, Ltd.  
401 South LaSalle Street, Suite 403  
Chicago, IL 60605  
***Via e-mail and facsimile***

The Compak Companies, LLC/ BMJ Parners/JoeAnn McClandon  
c/o Robert M. Fishman  
and George J. Spathis  
Shaw Gussis, Fishman Glantz Wolfson & Towbin  
321 N. Clark Street, Suite 800  
Chicago, IL 60610  
***Via e-mail and facsimile***

DuoTech Holdings, Inc./DuoTech Packaging LLC/Bruce Carlson.  
c/o Steven E. Anderson  
BARNES & THORNBURG LLP  
One North Wacker Drive, Suite 4400  
Chicago, IL 60606  
(312) 357-1313  
Fax: (312) 759-5646  
sanderson@btlaw.com  
***Via e-mail***

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

In re:	)	
	)	
COMPAK CORPORATION,	)	Case No. 02 B 22594
	)	Honorable Bruce W. Black
Debtor.	)	Chapter 7
	)	
COMMUNION PACKAGING	)	Case No. 02 B 39188
COMPANY, an Illinois corporation,	)	Chapter 7
	)	Honorable Bruce W. Black
Debtor.	)	
	)	(Jointly Administered)
	)	
<hr/> THE COMPAK COMPANIES, LLC,	)	
	)	
Plaintiff,	)	Adv. No. 04 A 04028
	)	
v.	)	
	)	
JIMMIE L. JOHNSON, RON BOWEN,	)	
BRUCE CARLSON, PATPAK, INC.,	)	
DUOTECH HOLDINGS, INC.,	)	
DUOTECH PACKAGING, LLC, AND	)	
OLMARC PACKAGING COMPANY,	)	
	)	
Defendants.	)	

**JOINDER OF TRUSTEES TO OBJECTIONS TO THE PROPOSED FINDINGS OF  
FACT AND CONCLUSIONS OF LAW PURSUANT TO BANKRUPTCY RULE 9033  
AND LOCAL RULE 9033-1**

David Leibowitz, trustee of the Estates of Compak Corporation and Communion Packaging Company, and Joseph A. Baldi, trustee of the estate of Jim Johnson (herein collectively the "Trustees"), as parties-in-interest in these proceedings, hereby join the Objections to the Proposed Finding of Fact and Conclusions of Law Pursuant to Bankruptcy Rule 9033 and Local Rule 9033-1, docket number 223, filed on July 7, 2008 by DuoTech Holdings, Inc., DuoTech Packaging LLC and Bruce Carlson.

Dated: July 24, 2008

Respectfully submitted,

**DAVID P. LEIBOWITZ**, not individually or personally, but solely in his capacity as Trustee of the Compak and Communion bankruptcy estates

By: /s/  
David Leibowitz  
Leibowitz Law Center  
420 Clayton Street  
Waukegan, IL 60085  
*Counsel to Chapter 7 Trustee*  
*David P. Leibowitz*

**JOSEPH A. BALDI, not individually or personally, but solely in his capacity as Trustee of the Johnson bankruptcy estate**

By: /s/  
Joseph A. Baldi (00100145)  
JOSEPH A. BALDI & ASSOCIATES PC  
19 South LaSalle Street  
Suite 1500  
Chicago, Illinois 60603  
Telephone: (312) 726-8150  
Facsimile: (312) 332-4629  
*Counsel to Chapter 7 Trustee*  
*Joseph A. Baldi*

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS**

In re:

**COMPAK CORPORATON,****Debtor.****COMMUNION PACKAGING COMPANY,****Debtor.**

---

**THE COMPAK COMPANIES, LLC****Plaintiff,****v.****JIMMIE L. JOHNSON, RON BOWEN, BRUCE  
CARLSON, PATPAK, INC., DUOTECH HOLDINGS,  
INC., DUOTECH PACKAGING , LLC, and OLMARC  
PACKAGING COMPANY,****Defendants.****Case No. 02 B 22594****Chapter 7****Honorable Bruce W. Black****Case No. 02 B 39188****Chapter 7****(Jointly Administered)****Adv. Proc. No. 04 A 04028**

**THE COMPAK COMPANIES, LLC'S RESPONSE TO THE DUOTECH DEFENDANTS'  
OBJECTIONS TO PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Plaintiff, The Compak Companies, LLC ("TCC"), by its attorneys and pursuant to the Federal Rules of Bankruptcy Procedure 9033 and Local Rule 9033-1, submits its response to the Objections ("Objections") by Duo Tech Holdings, Inc., DuoTech Packaging, LLC, and Bruce Carlson (the "Defendants")<sup>1</sup> to the Bankruptcy Court's proposed findings of fact and conclusions of law entered on June 25, 2008 (the "Proposed Findings" and "Proposed Conclusions").

**INTRODUCTION**

Ignoring the record in this case, the Defendants object to Bankruptcy Court's Proposed Conclusions that: (1) at all relevant times, Compak owned (or was entitled to own) the '351, '388 and '312 Patents (sometimes referred to as the "Related Patents"); (2) Compak's interests in the

<sup>1</sup> The Trustees of the Compak and Johnson bankruptcy estates have also filed objections merely joining in the Objections filed by the Defendants.

Related Patents were sold and assigned to BMJ Partners ("BMJ"), TCC's predecessor in interest; and (3) Compak's interests in all licensing agreement (including any agreement with DuoTech) were similarly sold and assigned to BMJ.

*Significantly, the Defendants have posited no objection to any of the Court's Proposed Findings.* Instead, Defendants' Objections simply rehash the same flawed legal arguments that they raised in the briefing of the summary judgment motion that the Bankruptcy Court properly rejected. The Defendants' Objections should be rejected in their entirety. As set forth more fully below, the Bankruptcy Court correctly held that Compak was vested with ownership of all of the Related Patents by operation of law, and its interest in the Related Patents were sold to BMJ. The Bankruptcy Court erred, however, in its conclusion that the sale did not occur "free and clear" of any DuoTech license to use the 106 Patent (defined below) and the Related Patents. Indeed, controlling Seventh Circuit authority makes it clear that even the complete *lack* of notice merely rendered the sale order voidable (not void), but that defect was waived by the Defendants, who failed to move in a timely fashion to vacate the sale order. Finally, in the alternative, to the extent that the Debtor's asset were sold *subject to* a DuoTech license, the Bankruptcy Court correctly concluded that any and all benefits, including the right to receive royalties on these Related Patents--belong solely to Plaintiff as the owner of the Related Patents.

### **THE STANDARD OF REVIEW**

The provision of Rule 9033 regarding this Court's review of the Proposed Findings and Conclusions is clear and concise:

The district court judge shall make a de novo review upon the record or, after additional evidence, of any portion of the bankruptcy judge's findings of fact or conclusions of law to which specific written objection has been made in accordance with this rule. The district judge may accept, reject or modify the proposed finding of fact and conclusions of law, receive further evidence, or recommit the matter to the bankruptcy judge with instruction.

Fed. R. Bank. P. 9033(d). Based upon this standard of review, the Proposed Findings should be accepted, and the Proposed Conclusions should be accepted, in part, and rejected, in part, as set forth both herein and in accordance with Plaintiff's Objections.<sup>2</sup>

**THE BANKRUPTCY COURT CORRECTLY CONCLUDED  
THAT, AT ALL RELEVANT TIMES, COMPAK WAS VESTED  
WITH OWNERSHIP OF THE PATENTS BY OPERATION OF LAW**

The Bankruptcy Court was correct when it held that: "All rights, title, and interest" in the Related Patents "vested in Compak by operation of law when the Patents were issued;" (2) that "Johnson was divested of any transferable interest" in these Related Patents; and that as such, (3) "the purported Patpak license was invalid..." See Proposed Conclusions at Count II, ¶¶ 2-4. This is particularly clear when viewed in content of the broader record, summarized briefly below.

The patents at issue are used to fabricate multi-compartment, dual-lid containers that allow the packaging of liquids and solids together. The first of these patents, the "106 Patent," was issued in 1993 to Jimmie Johnson. The 106 Patent was for a "communion cup" in which juice or wine is sealed in one compartment, and a communion wafer is sealed in the other compartment. Subsequent continuations of the 106 Patent merely expanded the uses for the container, and eventually added minor modifications to the lid design. See Plaintiff's Statement of Additional Material Facts (hereinafter "Statement") at ¶¶ 8-24.<sup>3</sup>

In 1992, while the 106 Patent was pending, Johnson assigned his interest in the 106 Patent, "and any related inventions" to the newly formed Compak Corporation ("Compak"), in exchange for 2,600,000 shares of Compak stock. At the same time, Johnson also executed a Subscription Agreement in which he agreed that he would not directly or indirectly use or disclose Compak's

<sup>2</sup> TCC filed its limited Objections to the Bankruptcy Court's Proposed Findings of Fact and Conclusions of Law on July 25, 2008, and incorporates them by reference herein.

<sup>3</sup> The Statement was included as part of Plaintiff's Response to the Statement of Facts as to which the DuoTech Defendants Contend there is No Genuine Issue, and an Appendix of Exhibits concurrently submitted in support thereof (the "Appendix"). Pursuant to Rule 9033(b), the Statement and Appendix will be furnished herewith, together with all pleadings referenced herein.



“processes, data, know-how, improvements, inventions [and] techniques ....or anything related thereto.” See Statement at ¶¶ 6-7. The Bankruptcy Court expressly found that the 1992 Bill of Sale operated as a transfer by Johnson of “all of his interest in the invention underlying the application which led to the 106’ patent, *and any subsequent related inventions*, to Compak.” See Proposed Findings at ¶ 10 (emphasis added). Defendants tacitly concede the same.

Johnson would later apply for the Related Patents, and obtained them in his own name (rather than Compak’s name) even though each was expressly designated as a “continuation” of the 106 Patent. See Statement at ¶¶ 8-24. The Bankruptcy Court expressly found that the “ideas and inventions which are the subject of the ‘351, ‘388 and ‘312 patents *are related to the ideas and inventions which are the subject of the ‘106 patent.*” See Proposed Conclusions at Count II, ¶ 1)(emphasis added). Again, Defendants have conceded the same.

Instead of assigning the Related Patents to Compak, Johnson purported to assign them to a new company, Patpak, Inc. (“Patpak”), that he created and controlled, and in turn, caused Patpak to license the Related Patents to Compak for a fee. See Statement at ¶¶ 35-47. Frankly, it is perplexing, that after conceding that Johnson assigned “future related inventions” to Compak, and that the Related Patents were, in fact, “future related inventions,” that the Defendants could even credibly debate the conclusion that logically follows—that the Related Patents belonged to Compak (not Johnson or Patpak). Nevertheless, the Defendants have objected based solely on the cryptic contention that “the question of patent ownership was never properly before the Bankruptcy Court.” See Objections at p. 4. The mere suggestion is absurd.

Indeed, this Court need not look past the Complaint to see that Plaintiff has steadfastly alleged throughout this litigation that Compak was the rightful owner of the Related Patents. Among other things, the Complaint alleges that the Related Patents “should have been registered in Compak Corporation’s name... .” See Complaint at ¶17. Moreover, Count I of the Complaint

(which was referred to the Bankruptcy Court) seeks the imposition of a constructive trust over the Related Patents, alleging that Compak was “the true and rightful owner,” because its funds and resources were used to develop the Related Patents, and thus asks the Court to order Johnson to transfer legal title to the Related Patents to Compak. *Id.* at ¶ 52. And finally, in the Complaint, Plaintiff also alleged that by virtue of its purchase of Compak’s business assets, Plaintiff was vested with Compak’s rights to the Related Patents. *Id.* at ¶ 53. Simply stated, the “question of patent ownership” was always squarely before the Bankruptcy Court, and any suggestion to the contrary strains the limits of good faith legal advocacy.

More significantly, however, the question of ownership of the Related Patents was expressly “teed-up” *by both sides* in the briefing of Defendants’ Motion for Summary Judgment (the “Motion”).<sup>4</sup> In fact, Defendants’ Motion expressly challenged Plaintiff’s “alleged ownership rights” in the Related Patents. *See* Defendants’ Memorandum of Law at p. 4. In its Response to the Motion, Plaintiff cited an abundance of authority demonstrating that the 1992 Bill of Sale (described above) automatically vested Compak with ownership of the Related Patents *as they were invented*. *See Imatec, Ltd., v. Apple Computer, Inc.*, 81 F.Supp.2d 471, 481 (S.D.N.Y. 2000); *see also FilmTec Corp. v. Allied-Signal, Inc.*, 939 F.2d 1568, 1573 (Fed. Cir. 1991)(assignment of future inventions occurs by operation of law); *Affymetrix, Inc., v. Illumina, Inc.*, 446 F.Supp.2d 292, 296 (D.Del. 2006)(present assignment of future interests occurs by operation of law, *and does not require subsequent assignment*). *See* Response at pp. 6-7, 10-11. Incredibly, the Defendants chose to ignore these arguments, failing to offer any contrary authority or rebuttal. This failure was tantamount to a concession by the Defendants of this critical issue. *See Roe-Midgett v. CC Servs., Inc.*, 512 F.3d 865, 876 (7<sup>th</sup> Cir. 2008)(where party fails to address an argument in a summary judgment brief, it is deemed a waiver). The Bankruptcy Court, therefore, correctly held

<sup>4</sup> In considering a motion for summary, any admissible evidence of record is properly before the court and may be considered. *In re Associated Bicycle Service, Inc.*, 128 B.R. 436, 441 (N.D.Ind. 1990).

that Compak was vested with ownership of the Related Patents by operation of law. The Defendants' Objection thereto must fail.

Similarly, in its Response to the Motion, Plaintiff also demonstrated that the 1992 Bill of Sale divested Johnson of any right, title or interest in the Related Patents. *See Imatec, Ltd.*, 81 F.Supp.2d at 481. Accordingly, there was no need (as Defendants claimed and still claim) for Plaintiff to "avoid" any purported pre-petition assignment of the Related Patents by Johnson.<sup>5</sup> Quite the contrary, because Johnson had no enforceable legal interest in the Related Patents, his purported assignment of the Related Patents to Patpak was a nullity. *See FilmTec Corp.*, 939 F.2d at 1573 (although employee purported to assign his rights in patent to a plaintiff, a third-party, "he had nothing to give to [the plaintiff] and his purported assignment to [the plaintiff] is a nullity.") The Defendants also chose to ignore *these* arguments, failing to offer contrary authority or counter-argument, thereby also conceding the issue. Thus, the Bankruptcy Court correctly held that Johnson "was divested of any transferable interest" in the Related Patents, and that his purported assignment of the Related Patents to Patpak as well as "the purported Patpak license was invalid." This Court should ignore the Defendants' Objections thereto.

The Bankruptcy Court's Proposed Conclusions relating to the ownership of the Related Patents (at Count II, ¶¶ 1-8, at Count I, ¶¶ 2-3) should be accepted, but modified per Plaintiff's limited objection.

---

<sup>5</sup> Whether by design or oversight, the Defendants stubbornly cling to the incorrect belief that Plaintiff's interest in the Related Patents hinges on the need for a bankruptcy trustee to bring a fraudulent conveyance or preference action. It does not. In fact, Plaintiff neither seeks to assert nor relies on any avoidance powers vested in either trustee. As set forth above, Compak's rights to the Related Patents vested by operation of law (not avoidance powers) as the Patents were issued (and long before Compak filed for bankruptcy). Similarly, Plaintiff neither needs nor seeks relief from the Court's March 2003 sale order which, as set forth below, plainly transferred Compak's rights in the Related Patents to BMJ.

**THE BANKRUPTCY COURT CORRECTLY CONCLUDED THAT  
COMPAK'S INTEREST IN THE RELATED PATENTS WERE  
TRANSFERRED TO PLAINTIFF PURSUANT TO THE SALE ORDER**

The Bankruptcy Court was also correct when it found and held that: (1) Compak was vested with all rights, title, and interest in the Related Patents by operation of law when they were issued; (2) that Plaintiff was the successful bidder at an auction of all of Compak's business assets (which merely excluded its bankruptcy causes of action); and that as such, (3) the imposition of a constructive trust was "needless" to transfer legal title of the Related Patents to Plaintiff. (Proposed Findings at ¶ 4, Proposed Conclusions at Count II, ¶ 2, and Count I, ¶ 3).

The Defendants argue that the Sale Order (defined below) only expressly referenced the 106 Patent, and not the Related Patents. *See* Objection at pp. 6-7. The complete record, however, makes it quite clear that Compak's rights, title, and interest in the Related Patents were included in its sale of Business Assets to BMJ. Indeed, at the outset of the auction process, Compak's counsel expressly acknowledged that the participants were bidding "for all of the assets of Compak," including its rights "to any intellectual assets." *See* Statement at ¶ 101-05, Appendix Ex. 60 at pp. 2, 4. After BMJ was the successful bidder, the sweeping nature of the conveyance was memorialized in the Bankruptcy Court's Order approving the sale (the "Sale Order") to BMJ of all of Compak's "Business Assets," defined exceedingly broadly to include "all of [the] business real and personal property" and merely excluding "bankruptcy causes of action, and related claims and cash." *See* Statement at ¶ 107-14, Appendix Ex. 62. Thus, to the extent that Compak was vested with actual property rights to the Related Patents, the Sale Order transferred those rights to BMJ.

In the alternative, even if Compak merely had the right to bring a cause of action against Johnson and/or Patpak to compel the formal assignment of the Related Patents, that right was also transferred to BMJ as part of the approved Sale Order. Indeed, the Bill of Sale operates to sell, assign, transfer and set over to BMJ "all of the Seller's rights, title and interest in and to all of the

personal property of the Seller, *tangible and intangible*, wherever located, including without limitation all of Seller's business as a going concern, goodwill, [and] *choses in action*... ." See Statement at ¶ 115, Appendix Ex. 66 (emphasis added). In short, the Sale Order effectively transferred to BMJ any and all rights that Compak had or could have asserted in the Related Patents.

Defendants argue that Plaintiff has "acknowledged lack of ownership" in the Related Patents because Plaintiff sought a settlement with the Trustees to purchase their interests in the Related Patents. This contention barely merits response. Indeed, the Settlement Agreement—which preceded the Court's Proposed Findings and Conclusions—is a compromise of disputed claims, expressly noting in its recitals that: "a dispute ensued between [Plaintiff], on the one hand, and Compak's and Johnson's Trustees on the other hand, over ownership and/or rights to use of the [Related] Patents." See Joint Motion of Ch. 7 Trustees for Approval of Settlement Agreement at Ex. A. The Settlement Agreement is plainly inadmissible to prove the validity of Plaintiff's claim to the Related Patents. See Fed. R. Evid. 408. And if it were not, this Court should also note that after Defendants objected to the settlement, outbid Plaintiff, and then entered into their own Agreement with the Trustees, the Trustees would not represent or warrant that they owned any of the Related Patents, but instead merely quit claimed "any and all of the rights, titles and interests that either has *or may have or claim to have*" in the Related Patents. By the Defendants' warped logic, this would be a clear admission by both parties that ownership of the Related Patents was unsettled.<sup>6</sup> Unsettled, that is, until the Bankruptcy Court entered its Proposed Findings and Conclusions and this Court affirms the same. The Bankruptcy Court's Proposed Conclusions

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<sup>6</sup> So it is clear, Defendants agreed to purchase the Trustees' alleged interests in the Related Patents with full knowledge that those interests (if any) were the subject of this pending legal dispute. They cannot, therefore claim *bona fide* purchaser status. In essence, the Defendants willingly took the gamble that they were buying something of value from the Trustees...and they lost that gamble.

relating to the transfer of the Related Patents (at Count I, ¶ 3) should be accepted, but modified per Plaintiff's limited objection.

**THE BANKRUPTCY COURT ERRED IN CONCLUDING THAT THE  
SALE ORDER DID NOT EFFECTIVELY TRANSFER COMPAK'S  
ASSETS TO BMJ FREE AND CLEAR OF THE DUOTECH LICENSE**

The Sale Order plainly purported to authorize the sale of Compak's Business Assets to BMJ "free and clear of all liens, claims, encumbrances and interests." (*See* Statement at ¶¶ 81-90). The Bankruptcy Court concluded, however, that the Sale Order was insufficient to extinguish the DuoTech license because Defendants never received notice of the same, and even if they did, the notice did not adequately advise them that their property rights "were in jeopardy at the sale." *See* Proposed Conclusions at Count II, ¶¶ 15-17. Even assuming that this were true, the Bankruptcy Court nevertheless erred in ultimately concluding that the Sale Order was "void" for the purpose of selling assets free and clear of the DuoTech license. *See* Proposed Conclusions at Count II, ¶¶ 18. Accordingly, Plaintiff joins Defendants in objecting to this conclusion, but for a vastly different reason—the Sale Order was, at most, *voidable* (not void) in this limited respect, and Defendants can no longer collaterally challenge the terms of the sale to a *bona fide* purchaser.

Stripped to its core, Defendants' challenge to the notice and sufficiency thereof is a collateral attack on the 2003 Sale Order, which otherwise purported to sell all of Compak's Business Assets free and clear of any DuoTech license. *See Gekas v. Pipin (In re Met-L-Wood Corp.)*, 861 F.2d 1012, 1018 (7th Cir. 1988) (post-sale lawsuit was properly dismissed as "a thinly disguised collateral attack on the judgment confirming the sale"). It must be noted, however, that a § 363 sale is an *in rem* proceeding that transfers property rights which are "good against the world, not just against those with notice of the proceedings." *Id.* In *In re Edwards*, a case squarely on point, the Seventh Circuit refused to set aside a bankruptcy sale of real property to a *bona fide* purchaser after eighteen months, even though a lien holder (who held a recorded second mortgage)

never received notice of the sale. 962 F.2d 641 (7th Cir. 1992). Although conceding that the lack of notice to the lien holder effectively denied it of due process rights, the Seventh Circuit reasoned that the impact of this error was trumped by the strong policy of preserving finality in a § 363 bankruptcy sale and “the principal that a bona fide purchaser at a bankruptcy sale obtains good title.” *Id.* at 645. As the Court explained:

The issue is what happens when the trustee or debtor in possession fails to make the required notice. That issue is controlled by the policy of finality illustrated by section 363(m) and by the limited scope of Rule 60(b). The doctrine of *bona fide* purchasers does not violate the due process clause.

*Id.* at 645. Accordingly, after weighing the competing valid property interests, the Court concluded that the scale tips “heavily in favor of the bona fide purchaser,” and held that the lien holder could not vacate the sale order conveying the property *free and clear* of the lien holder’s interest. *Id.* at 643-45.

*Edwards* and *Met-L-Wood* are dispositive of this dispute. The Sale Order expressly provided that BMJ was a good faith purchaser within the meaning of § 363(m). *See* Appendix Ex. 62 ¶¶15, G. The Defendants waived their right to challenge the Sale Order—even on the grounds of due process—because they failed to appeal the Sale Order or otherwise move for relief pursuant to Rule 60(b) or Rule 9024(b) of the Federal Rules of Bankruptcy Procedure. *See* 962 F.2d at 644. (“A denial of due processes is for the most part treated like any other legal error, and is thus waived if not pressed.”). Among other things, Rule 60(b) requires a litigant seeking relief from an order to move accordingly within a reasonable time, and not more than one year after the order was entered. *Id.* at 643 (“after the time for appeal [of the sale order] had passed the sale could only be challenged, if at all, only in accordance with the provisions of Rule 60(b)”). Thus regardless of whether they received prior notice that their rights were in jeopardy, Defendants failed to act reasonably thereafter to protect their alleged rights.

And so it is clear, Defendants were keenly aware that their rights were in jeopardy within months (if not days or weeks) of the entry of the Sale Order. In October, 2003, Plaintiff commenced the captioned infringement action against Defendants alleging that the Sale Order “extinguished the purported license as a matter of law.” *See* Complaint at ¶ 43. Still, however, Defendants never sought relief under Rule 60(b) or Rule 9024(b). Defendants’ protests about “fairness” ring hollow when measured against the interests of Plaintiff, a *bona fide* purchaser. This Court must reject Defendants’ Objections, and correct the Bankruptcy Court’s Proposed Conclusion that the Sale Order did not transfer assets free and clear of the DuoTech license. While the Sale Order was perhaps voidable for a time, the time to challenge its legal impact has long passed. This Court should conclude that any DuoTech license was extinguished by the Sale Order, and thus any use of the Related Patents by Defendants thereafter was indeed infringement of the Related Patents. Defendants’ Motion for Summary Judgment as to Count II should be denied.

**ALTERNATIVELY, THE COURT MUST CONCLUDE THAT  
COMPAK’ TRANSFERRED ITS INTERESTS IN THE DUOTECH  
LICENSE TO PLAINTIFF AS PART OF THE 2003 BANKRUPTCY SALE**

Alternatively, to the extent this Court declines to find (as it should) that Defendants’ failure to seek timely relief from the Sale Order precludes their challenge to the rights of a *bona fide* purchaser which purchased assets “free and clear” of the DuoTech license, it should nevertheless approve the Bankruptcy Court’s conclusions that: (1) BMJ “acquired Compak’s interest in the DuoTech License through its purchase of the debtors’ assets;” and that as, such (2) the “DuoTech License was not an asset of the chapter 7 estate” and §365(d)(1) of the Bankruptcy Code does not apply. *See* Proposed Conclusions at Count II, ¶¶ 19-20.

Plaintiff concurs with Defendants that executory contracts must be “assumed” as that term is used by § 365 of the Bankruptcy Code to be assigned. Defendants are simply wrong, however, to the extent that they are contending that the DuoTech license could not have been assumed as



part of the assignment approved by the Bankruptcy Court in this case. Exalting form over substance, the Defendants contend that the assumption of the DuoTech license was “never approved, *by separate order*,” and thus “had not *properly* been assumed by Compak.” See Objection at p. 7 (emphasis added)<sup>7</sup>. There is nothing in the text or notes of § 365 that states that assumption must be made by a separate order. Defendants have not cited to any authority that supports their “separate motion” requirement (and Plaintiff’s research has not revealed any). In fact, there is ample authority that suggests the contrary—compliance with § 365 does not require strict adherence to rigid formalisms. See, e.g., *In re Re-Trac Corp.*, 59 B.R. 251, 254-55 (D.Minn. 1986); *In re By-Rite Distributing, Inc.*, 55 B.R. 740, 743 (D. Utah 1985). Rather, as the Court in *By-Rite* reasoned:

Section 365 contemplates two distinct actions, one by the trustee (or debtor in possession) and one by the Court. The trustee assumes or rejects, and the Court approves. The Code does not specify how the trustee is to assume or reject a lease, but the trustee’s action is different from the Court’s. Such is the import of § 365(a), which states that ‘the trustee, subject to the Court’s approval, may assume or reject any... [executory contract].’

*Id.*

In this case, the “two distinct actions” were accomplished concurrently. The Bankruptcy Court expressly found that that the Notice stated that “*all* executory contracts of the debtor” would be assigned to the purchaser. See Proposed Findings at ¶ 20 (emphasis added).<sup>8</sup> Similarly, the

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<sup>7</sup> The most disingenuous part of Defendants’ argument is that they would not have had any basis for objecting to the assumption of the DuoTech license. There has been no contention that Compak was in default thereof (it was not), thus there was no need to “cure” any default. See *Superior Toy & Manufacturing Co., Inc., v. Steege*, 78 F.3d 1169, 1174 (7<sup>th</sup> Cir. 1996)(debtor must cure any default to assume executory contract). Any failure to “properly assume” the license, therefore, would have been a meaningless technicality, yet the Defendants are attempting to exploit that technicality to the detriment of a *bona fide* purchaser.

<sup>8</sup> Indeed, Defendants are judicially estopped from arguing to the contrary having sought summary judgment based upon their belief that “it was clear from the Sale Motion and attached Asset Purchase Agreement and Procedures Order that the proposed ‘stalking horse’ bidder was seeking to assume *all* of Debtors contracts,” (Memorandum of Law at p. 12 (emphasis in original)), and arguing that the Notice

Sale Order sufficiently indicates that the executory contracts had been assumed as part of the assignment in that it expressly ordered that “[t]he ten day stay of this Order provided by ... Rule 6006(d) shall not apply. See Appendix Ex. 62 at ¶ N. Rule 6006 governs the “Assumption, Rejection or Assignment of an Executory Contract” and subsection (d) imposes a ten day stay of an order assigning an assumed executory contract “unless the court orders otherwise.” The fact that the Notice and Motion merely stated that the executory contracts would be “assigned,” rather than more precise, “assumed and assigned,” is legally irrelevant. See *Chbat v. Tleel (In re Tleel)* 876 F.2d 769, 772 (9<sup>th</sup> Cir. 1989)(“the bankruptcy court’s order permitting the Trustee to sell the property free and clear of all liens...operated as an assumption of the contract. .... In this case, the formal actions taken in the bankruptcy court by the debtor in possession acting as trustee....to obtain permission to sell the Property free and clear of all licenses...constitute an adequate assumption...”). Accordingly, the Defendants’ contention that the DuoTech license was not properly assumed before it was assigned must be rejected on the merits.<sup>9</sup> Of course, this Court need not reach the merits of the argument, however, because as set forth above, any challenge that the DuoTech license was not properly assumed is a collateral attack on the Sale Order that has been waived. See *Gekas*, 861 F.2d 1012 at 1018.

Finally, even assuming that the DuoTech license was not properly transferred (thus terminated by operation of law), the Defendants are legally mistaken in their belief that the benefits under the license created by operation of law pursuant to § 365(n) inured to the benefit of the Trustees (and now to Defendants by virtue of their settlement with the Trustees). The right to receive royalties on the Related Patents belongs solely to Plaintiff as the owner of the Related

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“informed parties in interest that the purchaser was going to *assume all of Debtor’s contracts, including licenses of intellectual property.*” *Id.* at p. 11 (emphasis added).

<sup>9</sup> A contrary holding would yield a patently unfair result and set a dangerous precedent by rewarding a debtor in possession that sells its interest in an executory contract to a *bona fide* purchaser, and then is allowed to claim that its failure (by design or oversight) to “properly assume” the contract rendered the sale a nullity, thereby creating a windfall for the debtor.

Patents. See *Chemical Foundation, Inc., v. E.I. du Pont Nemours & Co.*, 29 F.2d 597, 600 (D.Del. 1928)(assignee of patents enjoys all rights to future royalties unless assignor expressly reserves those rights for itself); see also WALKER ON PATENTS § 20.47.

Significantly, courts follow this same rule whether the royalties are paid pursuant to an express license agreement, or a license created by operation of law upon a timely election made pursuant to § 365(n). See *Schlumberger Resource Management Services, Inc., v. Cellnet Data Systems, Inc. (In re Cellnet Data Systems, Inc.)* 327 F.3d 242, 247-48 (2003). *Cellnet*, involved a dispute between a Debtor and the purchaser of its intellectual property over which of the two had the rights to receive royalties after an express license agreement was rejected and the licensee elected to continue using the patents pursuant to § 365(n) of the Bankruptcy Code. In *Cellnet*, the Third Circuit reaffirmed the axiom that “it is the intellectual property that creates the right to royalties” although it noted that the owner may otherwise “parcel out its bundle of rights” associated with ownership. *Id.* at 249-50. Citing *Chemical Foundation*, the Court made it clear, however, that it would not permit those rights to be “parceled out” cavalierly. Quite the contrary, the Court held that any right to receive royalties on a patent flowed from ownership of the patent unless “divorced by an *express reservation*.” *Id.* at 247. The Court also made it clear that the “express reservation” would have had to be part of the terms of the assignment, and not merely implied out of the retention of a license, holding:

Where an assignment conveys all the assignor's right title and interest [in patents], if the right to receive royalties is to be severed from the beneficial ownership of the patent and remain in the assignor, *there must be an express reservation or some agreement to that effect*. I do not think that the mere retention of the ‘license’ ... is sufficient to make the severance.

*Id.* at 247-48 (quoting *Crom v. Cement Gun Co.*, 46 F.Supp. 403, 405-06 (D.Del. 1942).

Similarly, in *Novon International, Inc., v. Novamont S.P.A., et al., (In re Novon International, Inc.)* 2000 WL 432848 (W.D.N.Y. 2000), the court took the same approach to a

similar dispute over the rights to receive royalties payable pursuant to §365(n). Noting that accrued royalties are not presumptively assigned, without more, by assignment of the patent, the presumption is reversed with respect to "future royalties," which "are incident to and transferred with the patent unless separated by express reservation or 'some agreement to that effect.' " 432848\*5.

It follows therefore that even if Defendants have a continuing viable license protected created by operation of law pursuant to § 365(n), any and all benefits inuring from that license belong to the Plaintiff. As the Bankruptcy Court found (and Defendants concede), the Debtor purported to assign *all* of its rights, title and interest in the DuoTech license (and Patpak license) to Plaintiff. There was no express reservation of any right to receive future royalties by the Debtor in any motion, notice, or agreement. Plaintiff, therefore, *not* the Trustees, and *not* the Defendants, is entitled to any and all royalties due for use of the Related Patents. Defendants Objections to the Bankruptcy Court's contrary Proposed Conclusions (at Count II, ¶¶ 18-20) must fail.<sup>10</sup>

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<sup>10</sup> Defendants' Objection to the Proposed Conclusions for their failure to grant them a right of set-off against Plaintiff for their attorney's fees is wholly without merit. See Objection at pp. 11-12. Under any scenario, Defendants would not be entitled to any set-off for the attorneys fees they purportedly incurred. Obviously, if Compak's assets were sold free and clear of all liens, claims, encumbrances and interests, then any rights set forth therein can only have been enforced against the proceeds of the sale. *Precision Industries, Inc. v. Qualtech Steel SQQ, LLC*, 327 F.3d 537, 548 (7<sup>th</sup> Cir. 2003)(asset sold free and clear of third party's interest, whose only recourse was to seek protection under section 363(e)). Even if a DuoTech license survived the sale, the issue of which license survived remains hotly contested. The July License does not confer any right to recover attorney's fees. See Statement at ¶¶ 48-56. And finally, if Defendants enjoy a license under § 365(n), they are expressly deemed to waive "any right of set-off it may have," whether under a prior license agreement, the Bankruptcy Code or non-bankruptcy law. 11 U.S.C. § 365(n)(2)(C(i)).

Respectfully submitted,

**COMPAK CORPORATON**

By: /s/ George J. Spathis  
One of its Attorneys

Dated: August 4, 2008

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**CERTIFICATE OF SERVICE**

George J. Spathis, an attorney, certifies that service of the above and foregoing pleading was accomplished through the Electronic Notice for Registrants on the attached CM/ECF service list, as well as upon the attached mail service list by first-class U.S. Mail, postage prepaid, on this 4<sup>th</sup> day of August, 2008. Copies of documents required to be served by Fed. R. Civ. P. 5(a), made applicable by Fed. R. Bankr. P. 7005, have been served.

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

In re:	)	
	)	
COMPAK CORPORATION,	)	Case No. 02 B 22594
	)	Honorable Bruce W. Black
Debtor.	)	Chapter 7
	)	
COMMUNION PACKAGING	)	Case No. 02 B 39188
COMPANY, an Illinois corporation,	)	Chapter 7
	)	Honorable Bruce W. Black
Debtor.	)	
	)	(Jointly Administered)
	)	
THE COMPAK COMPANIES, LLC,	)	
	)	
Plaintiff,	)	Adv. No. 04 A 04028
	)	
v.	)	
	)	
JIMMIE L. JOHNSON, RON BOWEN,	)	
BRUCE CARLSON, PATPAK, INC.,	)	
DUOTECH HOLDINGS, INC.,	)	
DUOTECH PACKAGING, LLC, AND	)	
OLMARC PACKAGING COMPANY,	)	
	)	
Defendants.	)	

**NOTICE OF FILING**

**TO: THE ATTACHED SERVICE LIST**

**PLEASE TAKE NOTICE** that on the 4th day of August, 2008, the undersigned filed **DUOTECH DEFENDANTS' RESPONSE TO PLAINTIFF'S OBJECTIONS TO THE BANKRUPTCY COURT'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**, with the United States Bankruptcy Court for the Northern District of Illinois, copies of which are herewith served upon you.

Respectfully submitted,

DUOTECH HOLDINGS, INC.; DUOTECH  
PACKAGING LLC and BRUCE CARLSON

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing document was served on this 4th day of August, 2008 via the ECF filing system, except as noted, to the following parties of record:

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By: /s/ Steven E. Anderson

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

In re:	)	
	)	
COMPAK CORPORATION,	)	Case No. 02 B 22594
	)	Honorable Bruce W. Black
Debtor.	)	Chapter 7
	)	
COMMUNION PACKAGING	)	Case No. 02 B 39188
COMPANY, an Illinois corporation,	)	Chapter 7
	)	Honorable Bruce W. Black
Debtor.	)	
	)	(Jointly Administered)
	)	
<hr/> THE COMPAK COMPANIES, LLC,	)	
	)	
Plaintiff,	)	Adv. No. 04 A 04028
	)	
v.	)	
	)	
JIMMIE L. JOHNSON, RON BOWEN,	)	
BRUCE CARLSON, PATPAK, INC.,	)	
DUOTECH HOLDINGS, INC.,	)	
DUOTECH PACKAGING, LLC, AND	)	
OLMARC PACKAGING COMPANY,	)	
	)	
Defendants.	)	

**DUOTECH DEFENDANTS' RESPONSE TO PLAINTIFF'S  
OBJECTIONS TO THE BANKRUPTCY COURT'S PROPOSED  
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

DuoTech Holdings, Inc., DuoTech Packaging LLC and Bruce Carlson (collectively hereafter "DuoTech") by and through their attorneys Barnes & Thornburg LLP, in accordance with Fed. R. Bank. P. 9033(b), hereby respond to Plaintiff's Objections to the Proposed Findings of Fact and Conclusions of Law filed with the Bankruptcy Court on July 25, 2008 and state:

### **Introduction**

Plaintiff (like defendants DuoTech and the Chapter 7 Trustees for the various estates) **does not object to the ultimate conclusion that the District Court should grant DuoTech summary judgment on Counts I and II of the Complaint, regardless of how the Court addresses either party's objections.** Plaintiff's objections to the Bankruptcy Court's Proposed Finding of Fact and Conclusion of Law ("Proposed Findings") are limited to three points.

First, Plaintiff argues that the word draft be stricken from Proposed Findings of Fact ¶13, even though the Bankruptcy Court found no deficiencies in the construction or implementation of the August 29, 2001 license agreement (also referred to as the "DuoTech License") which states that it supersedes any preexisting agreements. Second, Plaintiff suggests that Proposed Finding of Fact at ¶19 be changed to indicate that DuoTech Management received notice of the Sales Motion<sup>1</sup> even though the Bankruptcy Court provides detailed analysis supporting its conclusion that DuoTech was not served with sufficient notice and that the notice that was provided to other parties would not have adequately informed DuoTech that its license rights were in jeopardy. Third, Plaintiff seeks to expand the language of Proposed Conclusion of Law (Count I) at ¶3, when its actions demonstrate that Plaintiff did not own the '351, '388 and '312 patents (collectively referred to hereafter as the "Patents").

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<sup>1</sup> The Sale Motion consisted of a copy of the motion and a copy of the proposed Asset purchase agreement between Compak and a stalking-horse bidder. For purposes of consistency, all abbreviated designations are consistent with those used in the Proposed Findings.

**Plaintiff's Objection to Proposed Finding of  
Fact ¶13 is Unnecessary and Without Basis and Should Be Denied.**

Plaintiff objects to the Bankruptcy Court's use of the word "draft" in the Proposed Findings of Fact ¶13. In support of its objection, Plaintiff suggests that DuoTech denies that it had a working relationship and license agreement with Compak prior to the August 29, 2001 license agreement. This is not the case. In the very electronic correspondence cited by Plaintiff, Bruce Carlson acknowledges that a license agreement did exist for use of the Patents, albeit in an unsophisticated form. After acknowledging the inadequacy of the prior agreement for the purpose of selling packaging services to potential clients, Carlson stated the necessity for a more formal agreement. On this point, Carlson wrote:

[T]he original problem was the [DuoTech] spent a lot of money and time 'dummying-down' our original license with [Compak], so it would sail right through. [N]ow that is coming back to haunt us since other companies need to see real legalese. [L]et me be perfectly clear: this is not a problem – it is a language issue. [B]y Tuesday or [Wednesday, I] will present a new license to [C]ompak. If they don't accept it, we will package our mouth wash differently. (*emphasis added*) See Exhibit 2, Adv. Case No. 04 A 04028, Docket No. 231.

As is apparent from this statement, DuoTech's business partners required the legal certainty that accompanies a formal license; more specifically, a license that more clearly detailed the rights and obligations of both parties. The law has long recognized the business reality of companies working together under some basic form of understanding prior to the formal declaration of their working relationship in a traditional contract. *See generally Great Lakes & St. Lawrence Transp. Co. v. Scranton Coal Co.*, 239 F. 603, 610 (7th Cir. 1917). In order for DuoTech to approach potential customers on Compak's behalf, the two organizations had a basic draft agreement that was formalized (and superseded) by the August 29, 2001 DuoTech License. Thus, even if the previous versions of the agreement were "contracts," the

DuoTech License states that “[t]his agreement . . . supersedes any preexisting agreements between such parties concerning the same[.]” Supp. Tab “D” ¶19 at 15-16. Docket No. 148. There is no basis for Plaintiff’s proposed change.

Also, Proposed Findings of Fact ¶¶12 and 14 do not support Plaintiff’s objection, as Plaintiff suggests. Neither Proposed Finding addresses the completeness of any agreement between the parties prior to entering the DuoTech License agreement. In Proposed Conclusions of Law (Count II) ¶¶5-6 the Bankruptcy Court merely concluded that it would find, as a matter of law, that even if the August 2001 license were somehow invalid, DuoTech would still have the right to use all four patents at issue. The Proposed Findings do not show, however, that the Court found any deficiencies in the construction or implementation of the DuoTech License.

**Plaintiff’s Objection to Proposed Finding of Fact ¶19 Seeks To  
Overturn The Bankruptcy Court’s Notice Analysis and  
Should Be Denied As Legally and Factually Unsupported.**

Plaintiff objects to the Bankruptcy Court’s Proposed Finding of Fact at ¶19 because it does not include language identifying individuals who received notice of the Sale Motion. Plaintiff’s proposed amendment to the Proposed Finding of Fact at ¶19 would state that DuoTech “management” was aware of the Sales Motion. Plaintiff asserts that the addition to the Proposed Finding of Fact at ¶19 would provide a more accurate finding of fact. To the contrary, the adoption of the Plaintiff’s suggested additional language would overturn the Bankruptcy Court’s factual finding and, in so doing, invalidate the related Proposed Conclusions of Law (Count II) ¶¶ 9-17 regarding the notice issue.

Throughout the proceedings in Bankruptcy Court, the issue of whether DuoTech received proper notice of the Sales Motion has been key. As the Bankruptcy Court observed in Proposed Conclusion of Law (Count II) at ¶17, notice must be “of such nature as reasonably to convey the

required information” that DuoTech’s property rights were in jeopardy at the sale. As is evident from the Bankruptcy Court’s detailed analysis of the notice issue in ¶¶9-17 of Count II of the Proposed Findings, the Court concluded that DuoTech did not receive adequate notice of the Sales Motion in Finding of Fact ¶19. *See Proposed Findings* ¶¶19-20 and Proposed Conclusions (Count I) ¶¶9-19. Plaintiff cites no evidence to overturn the Court’s proposed finding or to justify a different conclusion. Rather, Plaintiff re-cites several opinions that the Bankruptcy Court specifically addressed in its Proposed Findings. Most notably, the Court held that *Boyd*<sup>2</sup> (the case cited by the Plaintiff in support of its position that service on Ron Bowen and Dr. Binkley satisfied traditional notice requirements in regards to DuoTech) “simply has no relevance to this case.” Plaintiff offers no new reasons why *Boyd* or the other cited cases would apply under the facts of this case and there are none. The Court’s factual and legal conclusions on the notice issue were correct and should not be changed. Plaintiff’s objection should again be denied.

**Plaintiff’s Objection and Supplement to  
Proposed Conclusion of Law ¶3 Should Be Also Baseless and Should Be Denied.**

Plaintiff finally objects to the Bankruptcy Court’s use of the phrase “and continued to have” in the Proposed Conclusion of Law (Count I) at ¶3, and requests that language be added to reflect a post-sale transfer of interest between BMJ and TCC. It is unclear how Plaintiff can object to the wording of this proposed conclusion while admitting, even if its suggested revision were adopted, that **“the imposition of a constructive trust to transfer title to the plaintiff is needless[.]”** (*emphasis added*). Plaintiff’s only supporting argument for changing the language of the Proposed Conclusion of Law (Count I) at ¶3 is that the language of the Sales Order

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<sup>2</sup> *Boyd v. Illinois State Police*, 98 C 8348, 2001 WL 726988 (N.D. Ill. June 28, 2001).

approved by the Court in March 2003 should be construed as broad enough to encompass all intellectual property rights owned by Compak at that time. However, Plaintiff's own actions in soliciting the Trustees of the various defendant estates and attempting to purchase these very same patents during the course of this litigation directly belie its new position. *See generally*, Joint Order of Chapter 7 Trustees For Approval of Settlement Agreement, Interpleader Adv. Case No. 03 A 03898, Docket No. 124.

Also, DuoTech has itself objected to the basis of the Proposed Conclusion of Law (Count I) at ¶3, asserting that (1) the ownership of the Patents was never properly before the Bankruptcy Court because Plaintiff lacked standing to bring bankruptcy causes of action, (2) any such action was an impermissible collateral attack on the March 2003 Sale Order that is barred by *res judicata* and that (3) the actions of all parties involved in the case (and the Bankruptcy Court's Approval of the Settlement Agreement<sup>3</sup>) show PatPak's ownership of the Patents. *See* DuoTech's Objection to the Proposed Finding of Fact and Conclusions of Law at 4-13, Adv. Case No. 04 A 04028, Docket No. 223.

Once more, there is no basis for this objection and it should be denied.

### Conclusion

Plaintiff's objections do not contest the ultimate conclusion reached by the Bankruptcy Court that summary judgment should enter in DuoTech's favor on Counts I and II of the Complaint and that portion of the proposed findings should remain intact no matter how the Court rules on either party's objections. Plaintiff's limited objections have no factual or legal basis. Accordingly, for the reasons set forth above and in DuoTech's objections,

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<sup>3</sup> The term "Settlement Agreement" refers to the agreement approved by the Bankruptcy Court on November 29, 2007 whereby DuoTech, purchased all of the remaining assets of the Compak, Communion Packaging Company, Patpak and Jimmie Johnson bankruptcy estates.

DuoTech respectfully requests that the District Court deny Plaintiff's objections, and enter summary judgment for DuoTech.

**DATED:** August 4, 2008

**DUOTECH HOLDINGS, INC.;**  
**DUOTECH PACKAGING, LLC and**  
**BRUCE CARLSON, Defendants**

By: /s/ Daniel P. Albers  
One of their Attorneys

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